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WHEN: Tuesday, May 14, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Vol. 78, No. 88
Tuesday, May 7, 2013

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3575

RIN 0575–AC92

Community Programs Guaranteed Loans

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS) is amending the regulations utilized to service the Community Facilities Guaranteed Loan Program in two separate sections, in order to clarify the types of projects that are eligible for a Community Facilities Guaranteed Loan. The intended effect of this action is to strengthen the Community Facilities Guaranteed Loan Program by limiting the risk to the guaranteed loan portfolio. RHS will prohibit the financing of facilities in which the operation of such facilities have not been supported by the community and have resulted in significant default and loan losses to the agency.

DATES: Effective July 8, 2013.

FOR FURTHER INFORMATION CONTACT: Susan Woolard, Loan Specialist, Rural Housing Service, U.S. Department of Agriculture, STOP 0787, 1400 Independence Ave. SW., Washington, DC 20250–0787, telephone: (202) 720–1506.

SUPPLEMENTARY INFORMATION:

Background

The Community Facilities Guaranteed Loan Program bolsters the credit available from private lending institutions through the guarantee of loans for essential community facilities in rural areas. This program has been in existence since 1992, and as it evolves, the need to define and revise terms is required.

Section 3575.24(a)(1)(x) currently identifies recreational facilities as eligible types of facilities for financing under this program. The Agency experience, however, shows that the current language is too brief and subject to different interpretations by prospective applicants and other program users. Therefore, the Agency is revising the paragraph to more clearly convey to the public the Agency's policy with respect to the financing of essential community facilities that provide recreational services as part of addressing overall community development needs.

Section 3575.25 prohibits the financing with guaranteed loan funds on specific types of projects. The Agency has added a paragraph (j) ''Golf courses'' to this section. This is based upon the Agency's experience to date in financing this type of project and the failure rate the Agency has experienced on golf course projects. Also, the lack of support demonstrated by the community indicates that a golf course is not essential to a rural community and is typically viewed as a commercial undertaking.

RHS published the proposed rule on June 26, 2012, to solicit comments on amending § 3575.24, ''Eligible loan purposes'' on facilities that are an integral part of the orderly development of a community. Recreational components, such as, but not limited to, playground equipment of an otherwise non-recreational eligible community facility such as childcare, educational, or health care facilities; and amending § 3575.25 ''Ineligible loan purposes'' identified as golf courses, water parks, race tracks or other recreational type facilities inherently commercial in nature.

Only one comment was received and it was outside the scope of the proposed rule and therefore not considered in this final rulemaking.

Executive Order 12866

The final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Programs Affected

The Catalog of Federal Domestic Assistance Program impacted by this action is 10.766, Community Facilities Loans and Grants.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which Rural Development is not aware and would like to engage in consultation with Rural Development on this rule, please contact Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov*.

Executive Order 12372, Intergovernmental Review

This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in the manner delineated in 7 CFR part 3015, subpart V.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted, before bringing suit in court challenging action taken under this rule.

Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, 42

U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. chapters 17A and 25, established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulatory Flexibility Act

The rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Under Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency has determined and certified by signature of this document that the rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program. Furthermore, the program does not treat entities differently based solely on their size.

Executive Order 13132, Federalism

The policies contained in the rule does not have any substantial direct effect on 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. Nor do the rules impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Implementation

It is the policy of this Agency that rules relating to public property, loans, grants, benefits, or contracts shall comply with 5 U.S.C. 553, notwithstanding the exemption of that section with respect to such rules.

Paperwork Reduction Act

The revisions in this rulemaking for part 3575 are subject to the burden package assigned OMB control number 0575–0137. No paperwork changes are being proposed.

Executive Order 12372, Intergovernmental Review of Federal Programs

This final rule is not subject to the provisions of EO 12372, which require intergovernmental consultation with State and local officials, because this rule provides general guidance on something. Applications for Agency programs will be reviewed individually under EO 12372 as required by program procedures.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 3575

Community facilities, Guaranteed loans, Loan programs.

For the reasons set forth in the preamble, chapter XXXV of subtitle B, title 7, Code of Federal Regulations is amended as follows:

CHAPTER XXXV—RURAL HOUSING SERVICE, DEPARTMENT OF AGRICULTURE

PART 3575—GENERAL

■ 1. The authority citation for part 3575 continues to read as follows:

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

Subpart A—Community Programs Guaranteed Loans

■ 2. Amend § 3575.24 to revise paragraph (a)(1)(x) to read as follows:

§ 3575.24 Eligible loan purposes.

(a) * * *

(1) * * *

(x) Community parks, community activity centers, and similar types of facilities that are an integral part of the orderly development of a community. Recreational components, such as, but not limited to, playground equipment of an otherwise non-recreational eligible community facility such as childcare, educational, or health care facilities are also eligible.

* * * * *

■ 3. Amend § 3575.25 to add paragraph (j) to read as follows:

§ 3575.25 Ineligible loan purposes.

* * * * *

(j) Golf courses, water parks, race tracks or other recreational type facilities inherently commercial in nature.

Dated: February 22, 2013.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2013–10783 Filed 5–6–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. APHIS–2007–0039]

RIN 0579–AC61

Recordkeeping for Approved Livestock Facilities and Slaughtering and Rendering Establishments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations regarding the interstate movement of livestock to require approved livestock facilities and listed slaughtering and rendering establishments to maintain certain records for 5 years. Currently, approved livestock facilities are required to retain certain records for 2 years, and there are no record retention provisions that apply to listed slaughtering and rendering establishments. Requiring the retention of certain records for 5 years will allow us to trace the prior movements of diseased livestock further into the past than is currently possible, thus providing the opportunity to locate potentially infected or exposed livestock that might otherwise remain unidentified. We are also requiring the operators of slaughtering and rendering establishments to sign listing agreements to document their agreement to comply with the requirements of the regulations for listed slaughtering and rendering establishments. Such agreements are currently required for approved livestock facilities, but not for slaughtering and rendering facilities. This change will eliminate that inconsistency.

DATES: *Effective Date:* June 6, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Debra C. Cox, Senior Staff Veterinarian, National Surveillance Unit, Centers for Epidemiology and Animal Health, VS, APHIS, 4700 River Road Unit 200, Riverdale, MD 20737; 301–851–3504.

SUPPLEMENTARY INFORMATION:

Background

The regulations in subchapter C of chapter I, title 9, of the Code of Federal Regulations contain provisions designed to prevent the dissemination of livestock or poultry diseases in the United States and to facilitate the control and eradication of such diseases. The regulations in 9 CFR part 71 (referred to below as the regulations) include general prohibitions on the interstate movement of animals that could spread livestock or poultry diseases.

The regulations in § 71.20 contain provisions under which livestock facilities may acquire and retain status as an approved facility. To obtain approval, facilities must enter into an agreement with the Animal and Plant Health Inspection Service (APHIS) in which they agree to follow certain procedures when handling livestock entering the facility. Part of this agreement states that documents such as weight tickets, sales slips, and records of origin, identification, and destination that relate to livestock that are in, or that have been in, the facility shall be maintained by the facility for a period of 2 years. Such records would be critical in the event that APHIS or State animal health officials needed to conduct a disease traceback investigation.

On July 7, 2008, we published in the **Federal Register** a proposed rule [1] (73 FR 38343–38346, Docket No. APHIS–2007–0039) to amend the regulations to require approved livestock facilities and listed slaughtering and rendering establishments to maintain certain records for 5 years. We also proposed to require the operators of slaughtering and rendering establishments to sign listing agreements to document their agreement to comply with the requirements of the regulations for listed slaughtering and rendering establishments.

We solicited comments for 60 days ending September 5, 2008. We received four comments by that date. They were from two private citizens (one of whom submitted two comments) and a rendering industry association. Two of the commenters expressed concerns about farm animal welfare and general dissatisfaction with the United States Department of Agriculture, but did not address the specific provisions of the proposed rule. The third commenter raised a number of specific concerns regarding the proposed rule. They are discussed below.

The commenter stated that we were incorrect to say that there are no recordkeeping requirements for rendering establishments, noting that the Food and Drug Administration (FDA) requires rendering establishments to keep records. The commenter questioned why rendering establishments should be subject to more stringent recordkeeping requirements by APHIS than by FDA and stated that the agencies should better coordinate their recordkeeping requirements.

The commenter is correct that the FDA has recordkeeping requirements in 21 CFR part 589 that apply to rendering establishments; however, those regulations require records to be kept for 1 year only. In our proposed rule, we noted that there are currently no APHIS requirements for recordkeeping by rendering establishments. APHIS attempts to coordinate its recordkeeping requirements with other agencies whenever possible, and we do not expect rendering establishments to keep different categories of records from what they already keep under FDA requirements. However, some animal diseases have incubation periods of several years, and an animal disease investigation may require tracing animals that were exposed to an infected animal several years before the outbreak occurred. If exposed animals have been slaughtered or died and been sent to a rendering establishment, we need to be able to confirm that they reached these terminal points. For this reason, we need the records to be kept for longer than 1 year. We are making no changes to the final rule in response to this comment.

The same commenter stated that, because of increased costs associated with the 2008 FDA ruminant feed ban rule, there may be an increased number of carcasses disposed of illegally. The commenter asked why APHIS has not addressed the issue of carcass disposal.

In its final rule prohibiting the use of certain cattle origin materials in the food or feed of all animals, published in the **Federal Register** on April 25, 2008 (73 FR 22720–22758, Docket No. 2002N–0273), FDA responded to comments that expressed the same concern regarding the impact the FDA rule could have on the availability and cost of disposal of cattle material prohibited in animal feed and dead stock cattle. In its response, FDA acknowledged that carcass disposal problems exist in certain States or regions and that developing and implementing adequate solutions to these problems is challenging. On April 24, 2009, FDA published a document confirming the effective date of the April 2008 final rule (74 FR 18626–18628, Docket No. FDA–2002–N–0031) and announced that it would delay compliance with the provisions of the April 2008 final rule until October 26, 2009, stating that a delay in the compliance date would allow the significant number of stakeholders affected by the April 2008 final rule more time to comply with the new regulations or adjust to the loss of rendering service. In that notice, FDA also acknowledged that it might be particularly challenging to address such disposal problems by the compliance date. FDA issued a revision of the Small Entities Compliance Guide for Renderers on May 6, 2009, and has stated its intent to engage in further outreach to the rendering industry, pertinent State agencies, and others affected by the rule. APHIS has been working and will continue to work with FDA to address any animal disease issues associated with implementation of the feed ban rule, and will revisit the issue of carcass disposal if necessary. We are making no changes to the rule in response to this comment.

The commenter stated that APHIS's animal disease traceability program does not address animal identification beyond death unless the animal is slaughtered in a federally inspected slaughter facility. The commenter expressed concern that without stronger identification requirements for animals and carcasses, additional recordkeeping requirements for renderers will have no benefit for animal health.

The commenter is correct that APHIS' animal disease traceability program focuses on the identification of live animals rather than of carcasses. We did not propose to require renderers to keep traceability information for carcasses they collect, or to establish new categories of records, but only to keep the records they do have for a longer period of time. We acknowledge that there may be an animal disease risk from products produced by rendering an animal that has died of disease; however, primary authority for regulating rendered products falls to the Food Safety and Inspection Service and FDA. APHIS has worked and will continue to work with these agencies to ensure that any animal disease issues associated with these products are

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2007-0039.*

addressed. We are making no changes in response to this comment, however.

It is necessary for us to make a change in this rule so that its provisions are consistent with those of our final rule on animal disease traceability (see 78 FR 2040–2075, Docket No. APHIS–2009–0091). Specifically, in that final rule we acknowledge, in responding to comments, that the lifespans of poultry and swine are relatively short compared with those of other species of livestock, and that records for those animals do not, therefore, need to be kept as longs as records for other animals. Hence, in that final rule, we provided for the retention of records for poultry and swine to 2 years rather than 5. To be consistent, this final rule keeps the recordkeeping period for poultry and swine at 2 years. Records for cattle, bison, sheep, goats, cervids, and equines will still be required to be kept for 5 years.

In addition, we are making a change to § 71.20(a)(8) to add a reference to 9 CFR part 86 to the list of regulations under which livestock must be identified at the time of, or prior to, entry into a livestock facility. This change should have been included in the animal disease traceability final rule but was inadvertently omitted.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This rule amends the regulations regarding the interstate movement of livestock to require approved livestock facilities and listed slaughtering and rendering establishments to maintain certain records for 5 years. Currently, approved livestock facilities are required to retain certain records for 2 years. No record retention provisions currently apply to listed slaughtering and rendering establishments.

For some livestock diseases, the incubation period (the time from when an animal becomes infected until the disease is evident) can last for years before clinical or behavioral signs become apparent. A prime example is bovine tuberculosis, a contagious disease of both animals and humans caused by specific types of bacteria that are part of the *Mycobacterium* group. The incubation period for bovine tuberculosis can range from months to years. By requiring record retention for 5 years, the rule will benefit APHIS and State animal health authorities, the operators of livestock, slaughtering, and rendering facilities, and livestock producers, generally, in the event that a traceback is required to locate the source herd of an animal discovered to have a disease such as bovine tuberculosis.

The rule is not expected to result in significant costs for the affected entities. An analysis of similar recordkeeping costs expected to be incurred in connection with a May 2012 Food Safety and Inspection Service rulemaking (75 FR 14361–14368, Docket No. FSIS–2008–0025) found the costs to be minimal. For approved livestock facilities that are already required to retain records for 2 years, and rendering facilities that are currently maintaining relevant records per FDA's requirements, the costs will be smaller still.

The alternative to the rule would be to leave the regulations unchanged. In doing so, possible reductions in losses associated with animal diseases that have long incubation periods would not be realized. The rule is preferred to the current regulations, given the relatively minor recordkeeping costs that would be incurred to achieve improved traceback capabilities.

The benefits of the rule will justify its costs. There were no comments received on the economic analysis prepared for the proposed rule, nor were other significant economic issues raised. While the majority of approved livestock facilities, slaughtering establishments, and rendering establishments are small entities, costs incurred because of the rule are also expected to be small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0342, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance 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. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste

Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 9 CFR Part 71

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 9 CFR part 71 as follows:

PART 71—GENERAL PROVISIONS

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

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 71.20 is amended as follows:

■ a. By revising paragraph (a)(7) to read set forth below.

■ b. In paragraph (a)(8), by removing the words ''and 85'' and adding the words ''85, and 86'' in their place.

■ c. In the OMB citation at the end of the section, by removing the words ''number 0579–0258'' and adding the words ''numbers 0579–0258 and 0579–0342'' in their place.

§ 71.20 Approval of livestock facilities.

(a) * * *

(7) Documents such as weight tickets, sales slips, and records of origin, identification, and destination that related to livestock that are in, or that have been in, the facility shall be maintained by the facility. For poultry and swine, such documents must be kept for at least 2 years, and for cattle and bison, sheep and goats, cervids, and equines, for at least 5 years. APHIS representatives and State representatives shall be permitted to review and copy those documents during normal business hours.

* * * * *

■ 3. Section 71.21 is amended as follows:

■ a. By redesignating paragraphs (a)(l), (a)(2), and (a)(3) as paragraphs (a)(2), (a)(3), and (a)(4), respectively, and by adding a new paragraph (a)(l) to read as set forth below.

■ b. By adding a new paragraph (a)(5) to read as set forth below.

■ c. In the OMB citation at the end of the section, by removing the words ''number 0579–0212'' and adding the words ''numbers 0579–0212 and 0579–0342'' in their place.

§ 71.21 Tissue and blood testing at slaughter.

(a) * * *

(1) The owner or operator of the establishment must agree, in writing, to meet the requirements for a listed facility under this section by signing a listing agreement.

* * * * *

(5) The management of the slaughtering or rendering establishment agrees that weight tickets, sales slips, and records of origin, identification, and destination that relate to livestock that are in, or have been in, the establishment will be maintained by the establishment. For poultry and swine, such documents must be kept for at least 2 years, and for cattle and bison, sheep and goats, cervids, and equines, for at least 5 years. APHIS, APHIS contractors, and State animal health representatives will be permitted to review and copy or scan these documents during normal business hours.

* * * * *

Done in Washington, DC, this 2nd day of May 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–10825 Filed 5–6–13; 8:45 am]

BILLING CODE 3410–34–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1075

[Docket No. CFPB–2013–0011]

RIN 3170–AA38

Consumer Financial Civil Penalty Fund

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or Act) establishes a ''Consumer Financial Civil Penalty Fund'' (Civil Penalty Fund) into which the Consumer Financial Protection Bureau (Bureau) must deposit any civil penalty it obtains against any person in any judicial or administrative action under Federal consumer financial laws. Under the Act, funds in the Civil Penalty Fund may be used for payments to the victims of activities for which civil penalties have been imposed under Federal consumer financial laws. In addition, to the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use funds in the Civil Penalty Fund for the purpose of consumer education and financial literacy programs. This rule implements the relevant statutory provisions by articulating the Bureau's interpretation of what kinds of payments to victims are appropriate and by establishing procedures for allocating funds for such payments to victims and for consumer education and financial literacy programs.

DATES: This rule is effective May 7, 2013.

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SUPPLEMENTARY INFORMATION:

I. Background

Title X of the Dodd-Frank Act established the Bureau with a mandate to regulate the offering and provision of consumer financial products and services under the Federal consumer financial laws. Public Law 111–203, § 1011(a) (2010), *codified at* 12 U.S.C. 5491(a). The Dodd-Frank Act authorizes the Bureau, among other things, to enforce Federal consumer financial law through judicial actions and administrative adjudication proceedings. 12 U.S.C. 5563, 5564. In those actions and proceedings, a court or the Bureau may require a party that has violated the law to pay a civil penalty. *See, e.g.,* 12 U.S.C. 5565.

Section 1017(d)(1) of the Dodd-Frank Act establishes a separate fund in the Federal Reserve, the ''Consumer Financial Civil Penalty Fund'' (Civil Penalty Fund), into which the Bureau must deposit civil penalties it collects from any person in any judicial or administrative action under Federal consumer financial laws. 12 U.S.C. 5497(d)(1). Under the Act, amounts in the Fund may be used ''for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws.'' 12 U.S.C. 5497(d)(2). In addition, ''[t]o the extent that such victims cannot be located or such payments are otherwise not practicable,'' the Bureau may use amounts in the Fund for consumer education and financial literacy programs. *Id.*

II. Summary of the Rule

This rule implements section 1017(d)(2) of the Dodd-Frank Act, 12 U.S.C. 5497(d)(2), by specifying the conditions under which victims will be eligible for payment from the Civil Penalty Fund and the amounts of the payments that the Bureau may make to them. In addition, the rule sets forth procedures the Bureau will follow for allocating and distributing funds from the Civil Penalty Fund.

First, the rule describes the roles of Bureau officials involved in managing the Civil Penalty Fund. It establishes the position of Civil Penalty Fund Administrator (Fund Administrator) and provides that the Fund Administrator will report to the Chief Financial Officer. In addition, the rule provides that the Civil Penalty Fund Governance Board—the body comprised of senior Bureau officials established by the Director to advise on matters relating to the Civil Penalty Fund—may advise or direct the Fund Administrator on the administration of the Civil Penalty Fund. The Fund Administrator must follow any written directions that the Civil Penalty Fund Governance Board provides.

Second, the rule identifies the category of victims who may receive payments from the Civil Penalty Fund and sets forth the amounts they may receive. Under the rule, a victim is eligible for payment from the Civil Penalty Fund if a final order in a Bureau enforcement action imposed a civil penalty for the violation or violations that harmed the victim. In addition, the rule effectuates the intent of section 1017(d)(2) of the Dodd-Frank Act to provide Civil Penalty Fund payments only to compensate victims for the harms they suffered from a violation for which penalties were imposed. In addition, as envisioned by section 1017(d)(2), the Bureau will make payments to victims from the Civil Penalty Fund only to the extent practicable. The rule identifies that part of victims' harm that the Bureau believes to be potentially practicable to calculate, and thus susceptible to compensation under section 1017(d)(2). The rule also establishes procedures for determining that compensable harm. When possible, the amount of compensable harm that a victim suffered from a violation will be determined based on the objective terms of the order imposing a civil penalty for the violation. If the amount of harm cannot be determined based on the terms of the order alone, a victim's compensable harm is the victim's out-of-pocket loss that resulted from the violation, unless that amount would be impracticable to determine.

The rule further provides that the Bureau will use funds in the Civil Penalty Fund to compensate only victims' uncompensated harm. Under the rule, a victim's uncompensated harm is the victim's compensable harm, less any compensation for that harm that the victim has received or is reasonably expected to receive.

Third, the rule establishes a two-stage procedure for expending money in the Civil Penalty Fund. First, the Fund Administrator will *allocate* funds for payments to victims and, if appropriate, for consumer education and financial literacy programs. At the allocation stage, the Fund Administrator will assign amounts to *classes* of victims—that is, to groups of similarly situated victims who suffered the same or similar violations for which the Bureau obtained relief in an enforcement action. The Fund Administrator will allocate funds to a class only to the extent that payments to class members would be practicable. Second, the Fund Administrator will designate a payments administrator to *distribute* allocated funds to *individual* victims in the classes to which funds have been allocated. Again, a payments administrator will make payments to individual victims only to the extent practicable. The rule identifies specific ways in which payments to individual victims or to a class of victims might be impracticable.

For funds allocated to consumer education and financial literacy programs, the Bureau has adopted criteria [1]—not contained in this rule—for selecting the particular consumer education or financial literacy programs to be funded.

Under the rule, the Fund Administrator will allocate funds from the Civil Penalty Fund on a six-month schedule. The Fund Administrator is responsible for establishing the schedule of six-month periods. Following the end of any given six-month period, the funds available for allocation are those present in the Civil Penalty Fund as of the end of that period, minus funds already allocated and certain other funds. In general, the Fund Administrator may allocate the available funds to those classes of victims that had uncompensated harm as of the end of that six-month period, unless making payments to that class would be impracticable. If sufficient funds are available, the Fund Administrator will allocate to all such classes of victims enough money to provide full compensation to the victims in those classes to whom it is practicable to make payments. If funds remain, the Fund Administrator may allocate a portion of those remaining funds for consumer education and financial literacy programs.

The Bureau anticipates that at times the available funds in the Civil Penalty Fund may not be sufficient to provide full compensation to all classes of victims to which it is practicable to make payments. The Bureau has endeavored to establish equitable, transparent, and efficient procedures for allocating funds in those circumstances. Under the rule, classes of victims that first had uncompensated harm during the six-month period that most recently ended will receive priority in such ''lean'' periods. If funds remain after allocating sufficient funds to provide full compensation to all victims in those classes, classes of victims from the previous six-month period will receive second priority, and so forth until no funds remain. At times, there may not be sufficient funds to give full compensation to all classes of victims from a single six-month period. In those circumstances, the rule specifies that funds will be allocated in a way designed to ensure, to the degree possible, that victims in those classes will receive compensation—through redress and Civil Penalty Fund payments—for an equal percentage of their compensable harm.

In addition, to preserve flexibility in special circumstances, the rule authorizes the Fund Administrator, in her discretion, to depart from these procedures, including by declining to make, or altering the amount of, any allocation provided for by the rule. However, if the Fund Administrator exercises that discretion, funds that otherwise would have been allocated to a class of victims cannot instead be allocated to consumer education and financial literacy programs in that period. Rather, the Fund Administrator may allocate funds to consumer education and financial literacy programs during that six-month period only to the same extent she could have had she not exercised that discretion.

In addition to establishing procedures governing the allocation of funds from the Civil Penalty Fund, the rule also establishes procedures governing the distribution of allocated funds to eligible victims. In particular, the rule directs the Fund Administrator to designate a payments administrator to distribute payments to eligible victims in a class to which Civil Penalty Fund funds have been allocated. Under the rule, the Fund Administrator will instruct the payments administrator to propose a plan for distributing the payments. The Fund Administrator may require the plan to include procedures for determining payment amounts, for locating and notifying victims, for making payments, and for potentially eligible victims to contact the payments administrator. Upon the Fund Administrator's approval of a distribution plan, the payments

[1] The criteria are available at: *http://files.consumerfinance.gov/f/201207_cfpb_civil_penalty__criteria.pdf.*

administrator will distribute payments to victims in accordance with the plan to the extent practicable. If funds remain after distributing payments to victims in a class, the payments administrator will distribute those remaining allocated funds, to the extent practicable, among eligible victims in that class up to the amount of their remaining uncompensated harm. Any remaining funds that cannot be distributed among victims in the class in that way will be returned to the Civil Penalty Fund for future allocation.

Fourth, the rule sets forth several circumstances in which it will be deemed impracticable to make payments to victims or to classes of victims.

Finally, the rule requires the Fund Administrator to issue regular reports on the disposition of funds in the Civil Penalty Fund. Those reports will be made available on *www.consumerfinance.gov.*

III. Legal Authority

The Bureau is issuing this rule pursuant to its authority under section 1022(b)(1) of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial law, 12 U.S.C. 5512(b)(1); and under section 1017(d) of the Dodd-Frank Act, which establishes the Civil Penalty Fund and authorizes the Bureau to use amounts in that Fund for payments to victims and for consumer education and financial literacy programs.

This rule is in part an interpretative rule and in part a rule relating to agency procedure and practice. Accordingly, the rule is not subject to the 30-day delayed effective date for substantive rules under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d). Even if this requirement applied, the Bureau finds there is good cause for this rule to take effect immediately upon publication in the **Federal Register**. The principal purpose of delaying an effective date is to provide regulated persons an opportunity to prepare, such as by bringing their operations into compliance with new requirements. But this rule does not impose any obligations or prohibitions on the public, and the public therefore needs no time to prepare for the rule's effective date. Meanwhile, making the rule immediately effective allows the Bureau to begin as soon as possible the process of allocating funds in the Civil Penalty Fund to victims.

IV. Section-by-Section Description

Section 1075.100 Scope and Purpose

This section describes the scope and purpose of the rule. It explains that the rule implements section 1017(d)(2) of the Dodd-Frank Act by describing the conditions under which victims will be eligible for payment from the Civil Penalty Fund and the amounts of the payments they may receive. This section further explains that this rule establishes procedures for allocating funds in the Civil Penalty Fund to classes of victims and to consumer education and financial literacy programs, and for distributing allocated funds to individual victims. The rule also requires the Fund Administrator to issue regular reports on the Civil Penalty Fund.

Section 1075.101 Definitions

This section defines terms used in the rule.

Bureau. The rule provides that the term ''Bureau'' means the Bureau of Consumer Financial Protection.

Bureau enforcement action. The rule provides that the term ''Bureau enforcement action'' means any judicial or administrative action or proceeding in which the Bureau has obtained relief with respect to a violation.

Chief Financial Officer. The rule states that the term ''Chief Financial Officer'' means the Chief Financial Officer of the Bureau or any Bureau employee to whom that officer has delegated authority to act under this part. The rule further states that, in the absence of a Chief Financial Officer, the Director shall designate an alternative official of the Bureau to perform the functions of the Chief Financial Officer under this part.

Civil Penalty Fund. The rule provides that the term ''Civil Penalty Fund'' means the Consumer Financial Civil Penalty Fund established by 12 U.S.C. 5497(d).

Civil Penalty Fund Governance Board. The rule provides that the term ''Civil Penalty Fund Governance Board'' refers to the body, comprised of senior Bureau officials, established by the Bureau's Director to advise on matters relating to the Civil Penalty Fund.

Class of victims. The rule defines the term ''class of victims'' to mean a group of similarly situated victims who suffered harm from the same or similar violations for which the Bureau obtained relief in a Bureau enforcement action. Under this definition, a single Bureau enforcement action could involve multiple classes of victims. For example, the Bureau might obtain relief for multiple different violations in a single action. The set of victims harmed by one violation might overlap with the set of victims harmed by another violation, but each set could constitute a distinct class for purposes of this rule.

Defendant. The rule states that the term ''defendant'' means a party in a Bureau enforcement action that is found or alleged to have committed a violation. This includes parties that generally are referred to as ''respondents'' in administrative enforcement actions.

Final order. The rule provides that the term ''final order'' means a consent order or settlement issued by a court or by the Bureau, or an appealable order issued by a court or by the Bureau as to which the time for filing an appeal has expired and no appeals are pending. The rule makes clear that for purposes of this definition, ''appeals'' include petitions for reconsideration, review, rehearing, and certiorari.

This rule's definition of ''final order'' differs from the definition of that term in the Bureau's Rules of Practice for Adjudication Proceedings, which provide that an order may be considered ''final'' even if a petition for reconsideration or review is pending. For purposes of this rule, the Bureau has chosen to define ''final order'' as an order that is subject to no further review because the terms of an order in part determine whether victims may receive payments from the Civil Penalty Fund and, if so, in what amount. Thus, it is important that the terms of the final order not be subject to change. Otherwise, the Bureau would risk making Civil Penalty Fund payments that might turn out, as a result of appellate decisions, to have exceeded the amount victims may receive under the rule.

Person. The rule incorporates the definition of ''person'' set forth in section 1002(19) of the Dodd-Frank Act. Thus, the rule states that the term ''person'' means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

Redress. The rule states that the term ''redress'' means any amounts that a final order requires a defendant to distribute, credit, or otherwise pay to those harmed by a violation, or to pay to the Bureau or another intermediary for distribution to those harmed by the defendant's violation. The rule makes clear that redress includes but is not limited to restitution, refunds, and damages. A case brought by a party other than the Bureau—such as another federal agency, a state's attorney

general, or a private plaintiff—may result in ''redress'' as defined by the rule.

Victim. The rule defines ''victim'' to mean a person harmed as a result of a violation.

Violation. The rule provides that the term ''violation'' means any act or omission that constitutes a violation of law for which the Bureau is authorized to obtain relief pursuant to 12 U.S.C. 5565(a).

Section 1075.102 Fund Administrator

102(a) In General

Section 1075.102(a) establishes within the Bureau the position of Civil Penalty Fund Administrator (Fund Administrator) and provides that the Fund Administrator will report to the Chief Financial Officer and serve at that officer's pleasure. In addition, the Chief Financial Officer may, to the extent permitted by applicable law, relieve the Fund Administrator of the duties of that position without notice, without cause, and before naming a successor Fund Administrator.

102(b) Powers and Duties

Section 1075.102(b) provides that the Fund Administrator will have the powers and duties assigned to that official by this rule.

102(c) Interpretation of These Regulations

Section 1075.102(c) provides that the Civil Penalty Fund Governance Board may advise or direct the Fund Administrator on the administration of the Civil Penalty Fund, including regarding the interpretation of this part and its application to particular facts and circumstances. The Governance Board may provide this advice or direction on its own initiative or at the Fund Administrator's request. The rule makes clear that if the Governance Board issues to the Fund Administrator written directions regarding the administration of the Civil Penalty Fund, the Fund Administrator must follow those directions.

102(d) Unavailability of the Fund Administrator

Section 1075.102(d) provides that if there is no Fund Administrator or if the Fund Administrator is otherwise unavailable, the Chief Financial Officer will perform the Fund Administrator's functions and duties. In accordance with § 1075.101, the Chief Financial Officer may delegate to another Bureau employee the authority to perform the Fund Administrator's functions and duties in these circumstances.

Section 1075.103 Eligible Victims

Section 1075.103 provides that a victim is eligible for payment from the Civil Penalty Fund if a final order in a Bureau enforcement action imposed a civil penalty for the violation or violations that harmed the victim. This implements the Dodd-Frank Act, which authorizes Civil Penalty Fund payments to ''the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws.'' 12 U.S.C. 5497(d)(2). The Act does not clearly specify whether the *particular* activities that affected a particular victim must have been found to be violations in an enforcement action before the victim may receive payments from the Civil Penalty Fund. However, the Bureau interprets section 1017(d)(2) of the Dodd-Frank Act as authorizing such payments only to the victims of particular violations for which civil penalties were imposed. If section 1017(d)(2) instead authorized the Bureau to make payments to victims of activities that are of the same *type* as activities for which civil penalties were imposed—even if no civil penalty was imposed for the *particular* activities that harmed the victim—it would be difficult to identify all such activities, assess whether those activities were sufficiently similar to activities that gave rise to a civil penalty, and identify the victims of those activities. By contrast, interpreting section 1017(d)(2) to authorize payments only to victims of particular violations for which civil penalties were imposed establishes a clear eligibility rule that is straightforward to apply.

A victim's eligibility for payment from the Civil Penalty Fund and, as discussed below, the amount of any such payment do not depend on the amount of the civil penalty imposed or paid for the violation that harmed the victim. Section 1017 of the Dodd-Frank Act instructs the Bureau to deposit all amounts received as civil penalties into a single Civil Penalty Fund and authorizes payments from that Fund to the ''victims'' of ''activities'' for which ''penalties'' have been imposed. By creating a single Civil Penalty Fund, the statute enables the pooling of penalties from multiple actions. The Bureau therefore interprets section 1017 to make a victim's eligibility for payments from the Civil Penalty Fund depend only on whether a final order imposed a civil penalty for the violation that harmed the victim, and not on whether the defendant actually paid the penalty imposed or on how much the defendant paid. Thus, a victim is not limited to receiving some portion of the particular civil penalty paid for the violation that harmed the victim, but rather may receive payment from any funds in the Civil Penalty Fund.

Section 1075.104 Payments to Victims

104(a) In General

Section 1075.104(a) provides that the Bureau will use funds in the Civil Penalty Fund for payments to compensate eligible victims' uncompensated harm, as described in paragraph (b) of this section. This provision gives effect to the Bureau's interpretation of the Dodd-Frank Act as authorizing payments to victims only up to the amount necessary to compensate them for the harm they suffered as a result of a violation. The Bureau recognizes that section 1017(d)(2) authorizes payments to victims but does not specify what kinds of payments, in what amounts, or for what purposes. However, section 1017(d)(1)'s caption, ''Establishment of Victims Relief Fund,'' suggests that Civil Penalty Fund payments should provide relief to victims for harm suffered. Compensation for harm is a common purpose for payments to victims, and laws ordinarily do not go beyond that purpose to give victims windfall recoveries that exceed the harms they suffered.[2] To be sure, some laws do provide for payments to victims in excess of harms suffered, usually to provide additional incentives for private parties to enforce the law or to enhance the deterrent effect of such private enforcement.[3] Providing such payments here, however, would not further those goals: It would not incentivize victims to bring private enforcement actions, nor would it have any impact on deterrence because the size of the payments would not affect the size of the civil penalty that the defendant had to pay. Moreover, there is no indication in section 1017(d)'s text that the Civil Penalty Fund should provide victims payments beyond the extent of their harm.

The Bureau's interpretation also gives effect to the second sentence of section

[2] *See, e.g., Prudential Ins. Co. of Am.* v. *S.S. Am. Lancer,* 870 F.2d 867, 871 (2d Cir. 1989); *Reilly* v. *United States,* 863 F.2d 149, 165 (1st Cir. 1988); *Westerman* v. *Sears, Roebuck & Co.,* 577 F.2d 873, 879 (5th Cir. 1978).

[3] *See, e.g., Shearson/Am. Express, Inc.* v. *McMahon,* 482 U.S. 220, 241 (1987) (explaining that ''the antitrust treble-damages provision gives private parties an incentive to bring civil suits that serve to advance the national interest in a competitive economy''); *City of Newport* v. *Fact Concerts, Inc.,* 453 U.S. 247, 266–67 (1981) (''Punitive damages by definition are not intended to compensate the injured party, but rather to punish the tortfeasor whose wrongful action was intentional or malicious, and to deter him and others from similar extreme conduct.'').

1017(d)(2), which authorizes the Bureau to use funds in the Civil Penalty Fund for consumer education and financial literacy programs to the extent that payments to victims are not practicable. If the amount of individual victims' payments were not limited in some way, any one victim could receive the full amount in the Fund. Thus, so long as it was practicable to pay at least one victim—as it almost certainly always will be—funds would never become available for consumer education and financial literacy programs under section 1017(d)(2)'s second sentence. Therefore, for all the terms of section 1017(d)(2) to have effect, payments to victims must be subject to reasonable limitation. In light of the general principles discussed above, the Bureau believes that paying victims only to compensate them for harms suffered as a result of violations effectuates the statutory intent.

104(b) Victims' Uncompensated Harm

In general, a victim's uncompensated harm is the amount of the victim's compensable harm, as described in § 1075.104(c) and discussed below, minus any compensation for that harm that the victim has received or is reasonably expected to receive. To ensure that Civil Penalty Fund payments do not overcompensate victims, the Bureau will take account of compensation that victims have received from other sources. In addition, in some cases, some time may elapse between when an entity is directed to compensate victims, or when funds are allocated to compensate victims, and when the victims actually receive that compensation. The Bureau will take account of such compensation, even if victims have not yet received it. The Bureau understands section 1017(d)(2) to create a backstop that could provide compensation that victims otherwise would not receive. Thus, ''payments to victims'' should not include payments that would duplicate compensation that the victims are reasonably expected to receive in the future.

Section 1075.104(b)(2) describes three categories of compensation that a victim ''has received or is reasonably expected to receive.'' First, paragraph (b)(2)(i) provides that a victim has received or is reasonably expected to receive any Civil Penalty Fund payment that the victim has previously received or will receive as a result of a previous allocation from the Civil Penalty Fund to the victim's class.

Second, paragraph (b)(2)(ii) provides that a victim has received or is reasonably expected to receive any redress that a final order in a Bureau enforcement action orders to be distributed, credited, or otherwise paid to the victim, and that has not been suspended or waived and that the Chief Financial Officer has not determined to be uncollectible. The Bureau expects that defendants generally will pay the redress that they are ordered to pay in a Bureau enforcement action. Therefore, the Bureau generally considers it reasonable to anticipate that victims will receive any amount of compensation ordered in such an action. However, in some circumstances it will not be reasonable to expect a victim to receive some portion of the compensation ordered in a given action. In particular, victims will not likely receive a redress amount that the Bureau has suspended or waived. In addition, victims will not likely receive a redress amount that the Bureau has determined to be uncollectible in whole or in part.

Third, paragraph (b)(2)(iii) provides that a victim has received or is reasonably expected to receive any other redress that the Bureau knows has been distributed, credited, or otherwise paid to the victim, or has been paid to an intermediary for distribution to the victim, to the extent that (1) such redress compensates the victim for the same harm as would be compensated by a Civil Penalty Fund payment, and (2) it is not unduly burdensome, in light of the amounts at stake, to determine the amount of that redress or the extent to which it compensates the victim for the same harm as would be compensated by a Civil Penalty Fund payment.

The ''other redress'' covered by this provision includes redress paid to victims as a result of private litigation or enforcement actions by other regulators. Such redress would be subtracted from a victim's compensable harm only if the Bureau knows that the defendant has paid the other redress. The Bureau would not, pursuant to the rule, actively investigate what other redress victims have been paid. However, to the extent the Bureau does learn of other redress, such redress should be counted as compensation that victims have received.[4]

In addition, under this provision, a victim is not ''reasonably expected to receive'' other redress that a party has been ordered to pay, but has not yet paid. While many defendants will actually pay the full amounts ordered, the Bureau recognizes that some may not. The Bureau has substantially less information about the likelihood that defendants will fully comply with the orders in actions brought by other parties than it does about compliance with orders in its own actions. The Bureau often will not know, for example, whether redress from such a non-Bureau action is uncollectible. And while the Bureau has the authority to seek enforcement of orders it obtains, the Bureau usually will not know what efforts other parties might undertake to enforce the orders obtained in their own actions. Given those uncertainties, the Bureau will not consider a victim to be reasonably likely to receive redress from other parties' actions until the defendant has actually paid that redress to an intermediary for distribution to the victims.

Finally, the Bureau recognizes that in some circumstances it may not be practicable to assess the uncompensated harm of individual victims. In such cases, § 1075.104(b)(3) provides that, for purposes of this rule, each individual victim's uncompensated harm will be the victim's share of the aggregate uncompensated harm of the victim's class.

104(c) Victims' Compensable Harm

Section 1075.104(c) describes the amount of victims' compensable harm for purposes of this rule. As noted above, the Bureau interprets section 1017(d)(2) of the Dodd-Frank Act to authorize payments to a victim only up to the amount of harm that the victim suffered from the violation for which the Bureau obtained a civil penalty and for which the victim has not received and is not reasonably likely to receive other compensation. The Bureau also interprets that provision as directing the Bureau to make payments to victims only to the extent practicable.

The Bureau believes that for payments to be ''practicable,'' it must be feasible to carry out all the steps involved in making the payments, and to do so efficiently and without excessive administrative cost in the context of a system of making payments to many victims of many different activities.[5] The Dodd-Frank Act did not establish a tribunal or a formal procedure for distributing payments pursuant to

[4] The Bureau anticipates it will learn of other redress as a matter of course in many cases. For example, the Bureau may require a defendant to notify the Bureau of any judgment or settlement involving violations related to the order.

[5] *Cf.* 40 CFR 230.10(a)(2) (regulation specifying that an alternative is ''practicable'' for purpose of the Clean Water Act if ''it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes''); *Biodiversity Legal Found.* v. *Babbitt,* 146 F.3d 1249, 1255–56 (10th Cir. 1998) (statutory instruction to adhere to deadline to the degree ''practicable'' permitted agency to vary from deadline on the bases of what resources and funding were available and of how the agency assessed priorities).

section 1017(d)(2). Indeed, the statute does not specify any mechanism for making the payments. But, in light of section 1017(d)(2)'s placement within a statutory section that generally deals with the Bureau's administrative operations, the Bureau interprets that provision to refer to payments that may be made through ordinary administrative mechanisms. ''Practicable,'' therefore, means capable of being carried out through such mechanisms.

Consistent with this interpretation, later sections of the rule, discussed below, direct the allocation and payment of funds only to the extent that payments to victims would be practicable. In addition, § 1075.109 identifies circumstances in which payment may not be practicable. For payments to be practicable, the Bureau must be able to take measures that are reasonable in the context of the Civil Penalty Fund to determine the amount of victims' harm, and thus the amount of the payments the victims may receive. Given the nature of the Civil Penalty Fund and the likely volume of payments, making complex individualized determinations or subjective judgments about the nature or extent of victims' harm would entail significant administrative burden and delay. Calculating harm based on such determinations or judgments therefore would not be practicable. Instead, in this context, harm is practicable to calculate only if the Fund Administrator can determine it by applying objective standards on a classwide basis. For these reasons, the Bureau defines ''compensable harm'' to include only those amounts of harm that the Bureau deems practicable to calculate, in the sense just described. Section 1075.104(c) describes amounts of harm that the Bureau believes will be practicable to calculate and establishes procedures that the Fund Administrator will follow to determine compensable harm in each of several categories of cases.

The measures of harm described in this section will not always correspond to the amount of harm for which the Bureau or injured victims could obtain compensation under the relevant laws and regulations and do not in any way reflect the Bureau's view on what kinds of harm are or should be compensable in litigation. Rather, these objective measures simply reflect what is practicable for the Fund Administrator to determine in the context of the Civil Penalty Fund.

To the extent possible, the amount of a victim's compensable harm will be based on the objective terms of a final order. Referring to the terms of a final order will be practicable, and following the terms of orders will enable the Fund Administrator to determine a victim's compensable harm quickly and efficiently in most circumstances. In addition, by relying on the terms of a final order, the Fund Administrator can avoid making potentially subjective judgments about the nature of the harm that a class of victims has suffered and how to quantify and calculate that harm.

There are several categories of cases in which the Fund Administrator will be able to rely on the terms of a final order. First, under paragraph (c)(1), if a final order in a Bureau enforcement action ordered redress for a class of victims, the compensable harm of each victim in that class is equal to the victim's share of the total redress ordered, including any amounts that have been suspended or waived.

Second, under paragraph (c)(2)(i), if the Bureau sought redress for a class of victims but a court or administrative tribunal denied that request for redress in the final order, the victims in that class have no compensable harm. A court or administrative tribunal's denial of a request for redress presumably reflects that body's conclusion that the Bureau has not proven that the victims' harm is legally compensable.

Third, under paragraph (c)(2)(ii), if the final order in a Bureau enforcement action neither ordered nor denied redress to victims but did specify the amount of their harm, including by prescribing a formula for calculating that harm, each victim's compensable harm is equal to that victim's share of the amount specified. This paragraph will apply in cases where the Bureau does not seek any redress for a class of victims. For example, if the Bureau believed a defendant had too few financial resources to provide any meaningful redress to its victims, the Bureau might choose not to seek such redress and instead to pursue injunctive relief. However, the final order in such a case might still describe amounts of harm that victims suffered from the violations at issue. Relying on such a description would be practicable to the same extent as relying on an order of redress. When possible, such victims' harm—like the harm of victims for whom redress is ordered—will be determined according to the objective terms of a final order. Only when that is not possible will the Bureau look to external factors to assess victims' harm.

Paragraph (c)(2)(iii) describes the amounts of harm that the Bureau believes could practicably be determined in those circumstances. Under this paragraph, each victim's compensable harm is equal to the victim's out-of-pocket losses that resulted from the violation or violations for which a civil penalty was imposed, except to the extent such losses are impracticable to determine.

The restriction to out-of-pocket losses effectuates the ''practicable'' standard for payments to victims because those losses are what would be ''practicable'' to determine in the context of disbursing funds from the Civil Penalty Fund. As discussed above, the Bureau believes that for payments to be ''practicable'' it should be possible for the Fund Administrator to calculate the appropriate payments on the basis of objective standards applicable on a classwide basis. In addition, the Fund Administrator should be able to obtain objective evidence of the harm with effort that is reasonable in this context. It follows that, when the Fund Administrator must assess harm on her own because no final order has specified an amount of harm, the Fund Administrator should assess only the amount of out-of-pocket loss. In general, the amounts that victims have spent out of pocket can be determined on the basis of documentary records that are straightforward to obtain. If, in exchange, victims have received some product or service of value, the objective value of that product or service should generally also be feasible to determine on a classwide basis. Measures of harm beyond out-of-pocket loss would tend to involve more individualized questions or more complex judgments than the Bureau practicably can make in administering the Civil Penalty Fund.[6]

The Bureau recognizes, however, that it may not always be practicable to make a complete determination of victims' out-of-pocket losses. For instance, at times there may be no objective standard for assessing the value of a good or service the buyer received. As another example, in some cases, there may be no centralized records of the amounts buyers paid, and it may be too costly given the amounts at stake to seek that evidence from the individual buyers. Thus, under the rule, out-of-pocket losses are compensable harm only to the extent that they are practicable to determine.[7]

[6] The Bureau does not regard out-of-pocket losses as a general limitation on what remedy might be available to plaintiffs, such as the Bureau, in a given action to enforce federal consumer financial law. Other measures of harm often will be appropriate, depending on the circumstances. Out-of-pocket losses simply represents the Bureau's judgment about what would be practicable to calculate in the specific context of the Civil Penalty Fund.

[7] If one aspect of out-of-pocket losses is impracticable to determine, the Fund Administrator need not necessarily conclude that no harm can

The Bureau recognizes that many victims will have suffered harms in addition to those that the Civil Penalty Fund may compensate under this rule. For example, out-of-pocket loss may not be a complete measure of a particular victim's harm. But the Bureau does not understand the statute to guarantee complete compensation for victims. The Fund provides compensation only to the extent funds are available due to defendants' payment of civil penalties; and, pursuant to section 1017(d), the Fund provides compensation only to the degree ''practicable.'' The Bureau believes the rule faithfully interprets section 1017(d), and the rule does not preclude victims from receiving compensation from other sources in amounts greater than the Civil Penalty Fund might provide.

Section 1075.105 Allocating Funds from the Civil Penalty Fund—In General

Section 1075.105 establishes basic procedures that the Fund Administrator will follow when allocating funds in the Civil Penalty Fund to classes of victims and to consumer education and financial literacy programs. In particular, this section describes the schedule for making allocations and specifies what funds will be available for the allocations made on that schedule.

105(a) In General

Section 1075.105(a) provides that the Fund Administrator will allocate the funds specified in § 1075.105(c) to classes of victims and, as appropriate, to consumer education and financial literacy programs according to the schedule described in § 1075.105(b) and the guidelines set forth in §§ 1075.106 and 1075.107.

105(b) Schedule for Making Allocations

Section 1075.105(b)(1) directs the Fund Administrator, within 60 days of this rule's effective date, to establish and publish on *www.consumerfinance.gov* a schedule for allocating funds in the Civil Penalty Fund. That schedule generally will establish six-month periods and identify the start and end dates of those periods, with each period's start date immediately following the end date of the previous period. The first two periods of this schedule, however, need not be six months long. Rather, they may be longer or shorter than six months so that future six-month periods may start and end on dates that better serve administrative efficiency. These first two periods are considered ''six-month periods'' under this rule regardless of their actual length. The start date of the first period will be July 21, 2011.

The Fund Administrator will allocate funds from the Civil Penalty Fund on the basis of this schedule. In addition, the amounts that will be available for allocation and the time when classes of victims may be considered for allocations will depend on the schedule.[8] Section 1075.105(b)(2) provides that, within 60 days after the end of a six-month period, the Fund Administrator will allocate available funds in the Civil Penalty Fund in accordance with §§ 1075.106 and 1075.107. Consistent with those provisions, the Fund Administrator will allocate funds (1) to classes of victims that had uncompensated harm as of the last day of that six-month period and (2) to consumer education and financial literacy programs as appropriate.

Thus, the Fund Administrator will allocate funds from the Civil Penalty Fund only once every six months. The Bureau has chosen to make payments on a six-month schedule in part because it would be less fair to make payments on a continual basis, as funds are deposited and as classes of victims with uncompensated harm arise. If a class happened to have uncompensated harm for the first time on a day shortly after the Bureau had just allocated a substantial portion of the Civil Penalty Fund to some other class, victims in the new class would receive relatively small payments. Conversely, if a large amount were deposited into the Civil Penalty Fund, a class of victims that next had uncompensated harm would be relatively likely to receive full compensation for that harm. In both cases, the accidents of timing would dictate the results. The Bureau's method of allocating funds on a six-month schedule will give equal treatment to all classes from a given six-month period.[9]

The 60-day window for allocating funds after a six-month period gives the Fund Administrator time to collect and analyze available data in order to assess which classes of victims are eligible for Civil Penalty Fund payments and the amounts they may receive and to perform the calculations necessary to comply with §§ 1075.106 and 1075.107.

The classes to which funds may be allocated are only those classes that had uncompensated harm as of the last day of the six-month period that most recently concluded. Although other classes might have come to have uncompensated harm between that day and the time when the Fund Administrator next makes allocations, it would be difficult, as a general rule, for the Fund Administrator to carry out the assessments and calculations necessary to quantify the uncompensated harm of such classes and to take that harm into account in determining how funds will be allocated. If the Fund Administrator continually had to account for new classes of victims with new amounts of uncompensated harm after the close of a six-month period, her calculations would continually change. Constantly making new calculations would waste resources and could make it difficult for the Fund Administrator to allocate funds within 60 days of the close of a six-month period. For these reasons, the Bureau concludes that it would be impracticable for the Fund Administrator to make payments for uncompensated harm that arose after the end of a six-month period. Accordingly, the Fund Administrator will consider a class for an allocation only after the end of the six-month period in which the class began to have uncompensated harm.

Section 1075.105(b)(3) authorizes the Civil Penalty Fund Governance Board to change the schedule of six-month periods if it determines that a new schedule would better serve administrative efficiency. Under this provision, the Civil Penalty Fund Governance Board may change the schedule by directing the Fund Administrator to publish a new schedule on *www.consumerfinance.gov.* Any new schedule must comply with paragraph (b)(1)(i) of this section by establishing six-month periods and their start and end dates, with the start date of one period immediately following the end date of the preceding period. The first period of a new schedule may be shorter or longer than six months. That first period will constitute a ''six-month period'' under this part regardless of its actual length.

105(c) Funds Available for Allocation

Section 1075.105(c) provides that the funds available for allocation following the end of a six-month period are those

practicably be determined for the class. For example, if the value of a good or service received is impracticable to determine, the Fund Administrator may under the rule treat the amounts paid as the compensable harm if doing so would be reasonable.

[8] As explained in greater detail below, the schedule also in some cases governs which classes of victims will receive priority when there are insufficient funds available to compensate all victims fully.

[9] The Bureau could, in principle, extend this principle of equal treatment by allocating funds less frequently than every six months. However, doing so would mean making payments to victims less frequently. The Bureau expects that a six-month schedule will eliminate the most significant effects of timing while still ensuring that victims receive payments reasonably quickly.

funds that were in the Civil Penalty Fund on the end date of that six-month period, minus (1) Any funds already allocated, (2) any funds that the Fund Administrator determines are necessary for authorized administrative expenses, and (3) any funds collected pursuant to an order that has not yet become a final order.

Just as additional classes may become eligible between the end of a six-month period and the time when the Fund Administrator allocates funds following the end of that period, additional funds may be deposited into the Civil Penalty Fund during that interval. For the same reasons that the Bureau does not intend to allocate funds to such classes until the succeeding allocation, the Bureau likewise will not allocate such newly deposited funds until the succeeding allocation. Allocating funds involves calculations and assessments, and it would be difficult for the Fund Administrator to make those calculations and assessments based on a fluctuating, uncertain amount available for allocation.

The provision does not permit re-allocation of funds that the Fund Administrator has already allocated. Although funds might remain on deposit in the Civil Penalty Fund for a period of time after they are allocated to a class of victims or to consumer education and financial literacy programs, such funds remain allocated and are not available for reallocation.

In addition, this provision makes unavailable for allocation any funds that the Fund Administrator determines are necessary for authorized administrative purposes. The Bureau interprets section 1017(d)(2) of the Dodd-Frank Act, 12 U.S.C. 5497(d)(2), to authorize the Bureau to use funds in the Civil Penalty Fund not only for the actual payments to victims themselves, but also for the administrative expenses incurred to make those payments. Nothing in section 1017 or any other provision of law bars the Bureau from using funds in the Civil Penalty Fund for such administrative expenses, nor is there any indication that such expenditures are allowed only with express authorization. In addition, no other source of funding more specifically provides for those expenses. The Bureau may therefore use funds in the Civil Penalty Fund for administrative expenses that it determines are necessary or incident to making payments to victims.[10] To ensure that sufficient funds remain in the Civil Penalty Fund to pay such administrative expenses, the Bureau will exclude from the allocation process those funds that the Fund Administrator deems necessary for those expenses.

Finally, this provision also makes unavailable for allocation any funds that the Bureau collected pursuant to an order that has not yet become a final order. This ensures that the Bureau does not allocate or spend amounts that it could have to return to the payer. In particular, a defendant in a Bureau enforcement action could pay a civil penalty into the Civil Penalty Fund before the order imposing the civil penalty becomes a final order. In such a case, if the defendant appealed and a court reversed the imposition of the civil penalty, the Bureau would have to pay the amount of the civil penalty back to the defendant.

Section 1075.106 Allocating Funds to Classes of Victims

Section 1075.106 describes how funds will be allocated to classes of victims and establishes which victim classes will get priority and how much money the Fund Administrator will allocate to victim classes when there are not enough funds available to provide full compensation to all eligible victims who have uncompensated harm.

106(a) Allocations When There Are Sufficient Funds Available To Compensate All Uncompensated Harm

Section 1075.106(a) provides that, if the funds available under § 1075.105(c) are sufficient, the Fund Administrator will allocate to each class of victims the amount necessary to compensate fully the uncompensated harm, determined under § 1075.104(b) as of the last day of the most recently concluded six-month period, of all victims in that class to whom it is practicable to make payments.

This provision contains two limitations on the extent to which the Fund Administrator will allocate funds to compensate fully all victims. First, the Fund Administrator will not allocate funds to compensate uncompensated harm that arose after the end of the most recent six-month period.[11] As explained above, it would be impracticable for the Fund Administrator to make timely allocations if she had to revise the calculations continually to take account of newly arising uncompensated harm.

Second, the Fund Administrator will allocate to each class only an amount sufficient to compensate the uncompensated harm of all victims in the class *to whom it is practicable to make payments.* As noted above, section 1017(d)(2) of the Dodd-Frank Act calls for payments to victims only to the degree that such payments are practicable. The Bureau recognizes that even if it is practicable to calculate the uncompensated harm of a class of victims, it may nonetheless be impracticable, in some circumstances, to make payments to particular victims in the class. Section 1075.109 describes a number of such circumstances, which will be discussed below in more detail. Pursuant to § 1075.106(a), the Fund Administrator is authorized to take account of such circumstances at the time of allocation by reducing the allocation to a class on the ground that payments to some victims in the class will be impracticable.[12]

106(b) Allocations When There Are Insufficient Funds Available To Compensate All Uncompensated Harm

Section 1075.106(b) establishes the procedures the Fund Administrator will follow when the funds available under § 1075.105(c) are not sufficient to provide full compensation as described by paragraph (a).

This section groups classes of victims according to the six-month period in which the victims first had uncompensated harm as described in § 1075.104(b). Paragraph (b)(1) specifies how classes of victims will receive priority according to their respective six-month periods. Paragraph (b)(2) explains how the Fund Administrator will identify the six-month period to which a class of victims belongs.

106(b)(1) Priority to Classes of Victims From the Most Recent Six-Month Period

Under § 1075.106(b)(1), when there are insufficient funds available to provide all victims full compensation as described in paragraph (a), the Fund

[10] *See* Government Accountability Office, Principles of Federal Appropriations Law 4–20 (3d ed.) (quoting *Comptroller General McCarl to Maj. Gen. Anton Stephan, Commanding Officer, District of Columbia Militia,* 6 Comp. Gen. 619, 621 (1927)) (parenthetical explanation).

[11] A class's uncompensated harm could increase after the end of a six-month period if, for example, the Bureau waives or deems uncollectible an amount of redress that the class had been reasonably expected to receive. Under the rule, the Fund Administrator will take account of any increase in a class's uncompensated harm only after the six-month period in which that increase occurred.

[12] In many instances, the Fund Administrator will not know at the time of allocation whether it is practicable to make payments to particular individual victims. Sometimes, however, the Fund Administrator may have concrete information indicating that it will not be practicable to pay particular victims. If, for example, the Bureau previously distributed payments to a class and, despite reasonable efforts, could not locate some victims, the Fund Administrator might reasonably conclude, when making a further allocation, that it is not practicable to make payments to those unlocatable victims.

Administrator will prioritize allocations to classes of victims from the most recent six-month period. If funds remain after allocating to each class of victims from that six-month period the amount necessary to compensate fully the uncompensated harm, determined under § 1075.104(b) as of the last day of the most recently concluded six-month period, of all victims in that class to whom it is practicable to make payments, the Fund Administrator next will allocate funds to classes of victims from the preceding six-month period, and so forth until no funds remain. The Bureau has specified this tiered allocation process because it will be more administratively efficient to determine the appropriate allocations for classes from single six-month periods than to determine the appropriate allocations for all classes at once.

In addition, this process will result in lower administrative costs, both as an absolute matter and in terms of administrative cost per dollar distributed, than would a process requiring funds to be allocated among all classes. First, allocating the limited funds to a limited number of classes will mean that there will be fewer payments to make—and lower associated costs—than if the limited funds were allocated to more classes. Second, allocating the limited funds to a smaller number of classes generally will result in payments of greater amounts than if the Fund Administrator had instead allocated the limited funds more thinly among more classes. Making larger payments generally will be more cost-effective—in terms of administrative cost per dollar distributed—than making smaller payments.

106(b)(2) Assigning Classes of Victims to a Six-Month Period

As explained above, § 1075.106(b)(1) instructs the Fund Administrator to allocate funds among classes of victims from a single six-month period before allocating funds to classes of victims from an earlier six-month period. Paragraph (b)(2) explains that for purposes of paragraph (b), a class of victims is ''from'' the six-month period in which those victims first had uncompensated harm as described in § 1075.104(b).

This provision further specifies how the Fund Administrator will determine when a class of victims first had such uncompensated harm. First, if redress was ordered for a class of victims in a Bureau enforcement action but suspended or waived in whole or in part, the class of victims first had uncompensated harm, if it had any, on the date the suspension or waiver became effective. Second, if redress was ordered for a class of victims in a Bureau enforcement action, but the Chief Financial Officer determined that redress to be uncollectible in whole or in part, the class of victims first had uncompensated harm, if it had any, on the date the Chief Financial Officer made that determination. Finally, if no redress was ordered for a class of victims in a Bureau enforcement action, the class of victims first had uncompensated harm, if any, on the date the order imposing a civil penalty became a final order.

This provision corresponds to § 1075.104(b), which defines a victim's uncompensated harm. As noted above, that section provides that a victim's uncompensated harm is the victim's compensable harm, minus any compensation for that harm that the victim has received or is reasonably expected to receive. In all cases, a class of victims will first have *compensable* harm under this rule, if any, as of the date an order in a Bureau enforcement action becomes final because, under § 1075.104(c), the terms of the final order determine the amount of victims' compensable harm or how that harm will be ascertained. In cases where no redress is ordered, victims also often will have *uncompensated* harm as of the date the order in the Bureau enforcement action becomes final because, at the time of the order, they will not be reasonably expected to receive redress for their compensable harm. In cases where redress is ordered, however, victims generally will have no uncompensated harm at the time of the order because at that time they generally will be reasonably expected to receive the redress ordered. Later events, however, could make it no longer reasonable to expect the victims to receive compensation. In particular, under § 1075.104(b), a victim will no longer be reasonably expected to receive redress amounts if the Bureau waives or suspends those amounts or deems them uncollectible. Thus, a victim may begin to have uncompensated harm when such an event occurs.

106(c) No Allocation to a Class of Victims If Making Payments Would Be Impracticable

Section 1075.106(c) provides that, notwithstanding any other provision in this section, the Fund Administrator will not allocate funds available under § 1075.105(c) to a class of victims if she determines that making payments to that class of victims would be impracticable. As noted above, the Bureau interprets the Dodd-Frank Act to direct payments from the Civil Penalty Fund to victims only to the extent that such payments are practicable. In some cases, it may be impracticable to make payments to an entire class of victims; the Fund Administrator will not allocate funds to such a class.

106(d) Fund Administrator's Discretion

106(d)(1)

Section 1075.106(d)(1) provides that, notwithstanding any provision in this part, the Fund Administrator, in her discretion, may depart from the procedures specified by this section, including by declining to make, or altering the amount of, any allocation provided for by this section. This provision gives the Fund Administrator discretion to depart from the allocation procedures specified by § 1075.106; it is not intended to authorize the Fund Administrator otherwise to depart from the provisions in this part, for example by giving victims payments greater than their uncompensated harm. With this provision, the Bureau simply aims to give the Fund Administrator the flexibility to depart from the allocation procedures established by § 1075.106 when the circumstances warrant. For example, the Fund Administrator might choose to deviate from § 1075.106's allocation procedures if insufficient information is available, at the end of a given six-month period, to assess the total uncompensated harm for a class from that period. The Fund Administrator might choose to postpone allocating funds to that class until such time as the Fund Administrator has the necessary information. When the Fund Administrator does allocate funds to that class, she may, pursuant to this paragraph, prioritize the class for receiving allocations even though, according to § 1075.106(b)(2), the class's uncompensated harm arose some time previously.

As another example, a class of victims might have had uncompensated harm in an earlier six-month period, but the amount of the class's uncompensated harm might increase in a later six-month period. For example, the Bureau might suspend some amount of redress on one date, at which point the class could have uncompensated harm equal to that suspended amount. Then, the Chief Financial Officer might later deem part of the non-suspended amount uncollectible, at which point the class could have additional uncompensated harm equal to that uncollectible amount. The Fund Administrator might prioritize the class with respect to the additional amount of uncompensated

harm, even though pursuant to § 1075.106(b)(2) the class would be from the six-month period when it first had uncompensated harm.

Because the Bureau cannot anticipate all the situations in which it may be reasonable to deviate from § 1075.106's allocation procedures, it leaves the decision to deviate to the Fund Administrator's discretion. However, the Fund Administrator must provide the Civil Penalty Fund Governance Board a written explanation of the reason for departing from the ordinary allocation procedures.

106(d)(2)

Section 1075.106(d)(2) provides that, if the Fund Administrator, in allocating funds during a given time period described by § 1075.105(b)(2), exercises her discretion under paragraph (d)(1) of this section, she may allocate funds to consumer education and financial literacy programs under § 1075.107 during that time period only to the same extent she could have absent that exercise of discretion. While the Fund Administrator may, exercising the discretion authorized by paragraph (d)(1), adjust the distribution of funds among various classes, she cannot increase the amount available in a given time period for consumer education and financial literacy programs.[13]

The limitation on allocating funds to consumer education and financial literacy programs applies only to an allocation that occurs in the same time period described in § 1075.105(b)(2) in which the Fund Administrator exercises her discretion under § 1075.106(d)(1). This reflects the Bureau's interpretation of 12 U.S.C. 5497(d)(2) as authorizing it to use funds in the Civil Penalty Fund for consumer education and financial literacy programs whenever it is not currently practicable to use those funds for payments to victims instead. Under § 1017(d)(2), funds may be used for consumer education and financial literacy programs even if it would have been practicable at some time in the past to use those funds for payments to victims.

[13] The Bureau notes that when the Fund Administrator determines that payments to some victims in a class or to an entire class would be impracticable, the Fund Administrator's decision to allocate fewer funds or no funds to the class is not an exercise of discretion under paragraph (d)(1). Consistent with section 1017(d)(2) of the Dodd-Frank Act, the Bureau will not make or attempt to make payments that would be impracticable.

Section 1075.107 Allocating Funds to Consumer Education and Financial Literacy Programs

107(a)

Section 1075.107(a) implements the second sentence of section 1017(d)(2) of the Dodd-Frank Act, which authorizes the Bureau to use funds in the Civil Penalty Fund for the purpose of consumer education and financial literacy programs to the extent that victims cannot be located or payments to victims are otherwise not practicable. In particular, § 1075.107(a) provides that, if funds available under § 1075.105(c) remain after the Fund Administrator allocates funds as described in § 1075.106(a), she may allocate the remaining funds for consumer education and financial literacy programs. An allocation under § 1075.106(a) provides full compensation for the uncompensated harm of all victims to whom it is practicable to make payments. Thus, any funds remaining after such an allocation are available for allocation to consumer education and financial literacy programs. The Fund Administrator is not required to allocate such remaining funds to consumer education and financial literacy programs and instead may keep some or all funds in reserve for future allocation.

In the future, the Bureau may limit the amount of funds that the Fund Administrator may allocate to consumer education and financial literacy programs under this provision. In a notice of proposed rulemaking published in today's **Federal Register**, the Bureau seeks comment on whether it should impose any limits and, if so, what those limits should be.

107(b)

Section 1075.107(b) clarifies that the Fund Administrator's authority to allocate funds for consumer education and financial literacy programs does not include the authority to allocate funds to particular consumer education or financial literacy programs or otherwise to select the particular consumer education or financial literacy programs for which allocated funds will be used. Instead, the Fund Administrator's authority is limited to determining the amount that is allocated for expenditure on those kinds of programs. The Bureau has developed, and posted at *http://files.consumerfinance.gov/f/201207_cfpb_civil_penalty_fund_criteria.pdf,* its criteria for selecting these programs. These criteria are beyond the scope of this rule.

Section 1075.108 Distributing Payments to Victims

After the Fund Administrator allocates funds to a class of victims, those funds will be distributed to the individual victims in that class. Section 1075.108 describes the process for distributing payments to victims.

108(a) Designation of a Payments Administrator

Section 1075.108(a) provides that, upon allocating funds to a class of victims under § 1075.106, the Fund Administrator will designate a payments administrator who will be responsible for distributing payments to the victims in that class. The payments administrator may be any person, including a Bureau employee or contractor.

108(b) Distribution Plan

Section 1075.108(b) requires a payments administrator to submit to the Fund Administrator a proposed plan for distributing the funds that have been allocated to a class of victims. The Fund Administrator will then approve, approve with modifications, or disapprove the proposed distribution plan. If the Fund Administrator disapproves a proposed plan, the payments administrator must submit a new proposed plan.

108(c) Contents of Plan

Section 1075.108(c) indicates that the Fund Administrator will instruct the payments administrator to prepare a distribution plan and sets forth several elements that the Fund Administrator may require a distribution plan to include. Specifically, the Fund Administrator may require a distribution plan to include:

1. Procedures for determining the amount each victim will receive. Such procedures may, but need not, include a process for submitting and approving claims. The Bureau anticipates that a process for submitting and approving claims will not be required when it receives adequate data from a defendant to assess how much uncompensated harm each victim suffered.

2. Procedures for locating and notifying victims eligible or potentially eligible for payment. These procedures can include contacts by mail, telephone, electronic communications, or other means that may be practicable to employ.

3. The method or methods by which the payments will be made. Payment methods could include paper checks, electronic funds transfers, or other methods that may be practicable to employ.

4. The method or methods by which potentially eligible victims may contact the payments administrator. Such methods can include a telephone number, email address, or other methods.

5. Any other provisions that the Fund Administrator deems appropriate.

108(d) Distribution of Payments

Section 1075.108(d) provides that the payments administrator will make payments to victims in a class, except to the extent such payments are impracticable, in accordance with the distribution plan approved under paragraph (b) of this section and subject to the Fund Administrator's supervision.

108(e) Disposition of Funds Remaining After Attempted Distribution to a Class of Victims

Section 1075.108(e) addresses the circumstance in which some of the funds allocated to a class of victims remain undistributed after the payments administrator has made, or attempted to make, payments to the victims in that class. Funds might remain if the payments administrator cannot make payments to all victims in a class—because some victims cannot be located, because some victims do not redeem their payments, or because of other similar circumstances. To the extent practicable, the payments administrator will distribute the remaining funds to victims in that class up to the amount of their remaining uncompensated harm as described in § 1075.104(b). The Bureau believes that doing so will often be the most efficient use of remaining funds. The payments administrator will have recent and up-to-date information on the victims to whom it successfully made payments, and a second distribution to those victims would likely also be successful. If funds remain after providing full compensation for the uncompensated harm of such victims, the remaining funds will be returned to the Civil Penalty Fund. Those funds will then be available for future allocation.

For example, assume a class is comprised of 100 victims who have suffered $200 in uncompensated harm each, for a total $20,000 uncompensated harm for the class. The following chart shows how remaining funds would be distributed under four different scenarios [14]:

Amount allocated to the class	Payment amount (each victim's share of the allocated amount)	Number of victims to whom payments successfully made	Total funds distributed (Payment amount × Number of victims to whom payments made)	Allocated funds that remain (Amount allocated − Total funds distributed)	Disposition of remaining funds
$10,000	$100	75	$7,500	$2,500	Distributed among the 75 victims in the class to whom payments can successfully be made. The additional payments will be $33.33 each, giving victims a total of $133.33 each.
10,000	100	96	9,600	400	Returned to the Civil Penalty Fund. If the remaining funds were distributed among the 96 victims in the class to whom payments could successfully be made, each payment would be only $4.17. Given the cost of making a payment, it is likely not practicable to distribute payments of that amount.
20,000	200	75	15,000	5,000	Returned to Civil Penalty Fund. The 75 victims to whom payments were successfully made have already received $200, which is full compensation for their uncompensated harm.
16,000	160	75	12,000	4,000	$3,000 is distributed among the 75 victims to whom payments can successfully be made. That gives each victim an additional $40, for a total of $200, full compensation. The remaining $1,000 will then be returned to the Civil Penalty Fund.

Section 1075.109 When Payments to Victims Are Impracticable

As noted above, section 1017(d)(2) of the Dodd-Frank Act authorizes the Bureau to use funds in the Civil Penalty Fund for consumer education and financial literacy programs to the extent that payments to victims are not ''practicable.'' Accordingly, pursuant to §§ 1075.106 and 1075.108 of this rule, the Bureau will not make payments to individual victims when doing so would be impracticable and will not allocate funds to a class of victims to the extent making payments to that class would be impracticable. This section identifies circumstances in which payments to victims will be deemed not practicable.

In identifying these circumstances, the Bureau has considered the ordinary meaning of ''practicable'': ''reasonably capable of being accomplished; feasible.'' Black's Law Dictionary (9th ed. 2009). As a general matter, ''practicability'' is a flexible concept. What is practicable for an agency to accomplish depends, among other things, on the context and on the purpose the agency seeks to fulfill. As noted above, the Bureau will make Civil Penalty Fund payments to compensate many victims of many different activities for harm suffered from violations of law. Because, as discussed above, the Civil Penalty Fund pays for the administrative expenses incurred making payments to victims as well as for the payments themselves, administrative expenses should not be excessive. Therefore, the Bureau

[14] This chart is provided solely for explanatory purposes. The numbers are hypothetical and are not based on any actual class of victims that is or may be eligible for payment from the Civil Penalty Fund.

concludes that in assessing whether payments to victims are practicable in this context, one factor it should consider is the cost of administering the payments relative to the amounts of the payments.[15]

This section has two paragraphs that implement this understanding of practicability by identifying circumstances in which the costs of making payments would likely be so great, relative to the size of the payments, that making those payments would be impracticable. The first paragraph discusses payments to individual victims, and the second relates to payments to entire classes of victims.

109(a) Individual Payments

Section 1075.109(a) sets forth several circumstances in which payments to individual victims will be deemed impracticable. This section draws in part on class-action case law that examines when it is not practicable to locate class members or to make payments to them. Under this section, it will be deemed impracticable to make a payment to an individual victim if:

1. The payment to the victim would be of such a small amount that the victim would not be likely to redeem the payment.

2. The payment to the victim is too small to justify the cost of locating the victim and making the payment. For example, if it will cost $10 to locate and make a payment to a victim, the Fund Administrator may deem it impracticable to make a $10 or $15 payment to that victim.

3. The victim cannot be located with effort that is reasonable in light of the amount of the payment. This provision acknowledges that there are different methods a payments administrator could employ to attempt to locate a victim, and that each additional effort will carry additional cost. At some point, the additional cost is not reasonable given the amount of the payment that the victim would receive. In these circumstances, it will not be practicable to make a payment to the victim.

4. The victim does not timely submit information that a distribution plan requires to be submitted before a payment will be made. For example, in some cases, the Bureau may not be able to get complete information from a defendant identifying the victims of a violation and the amounts of their harm. In those cases, a distribution plan may require that victims make claims for payment by submitting relevant information. If a victim fails to submit that information as required by the distribution plan, the payments administrator will not be able to determine whether the person is a victim and, if so, the amount of that person's uncompensated harm. In those circumstances, it will not be practicable to make a payment to that victim.

5. The victim does not redeem the payment within a reasonable time. For example, if payments are made by check, the check will indicate that it will be void after a certain amount of time. If a victim does not redeem the payment within that amount of time, it may not be practicable to make a payment to that victim.

6. The Fund Administrator determines that other circumstances make it unreasonable to make a payment to the victim. The Bureau acknowledges that there may be situations other than those specifically enumerated in which the costs of making a payment will not be reasonable in light of the benefits.

109(b) Payments to a Class of Victims

Section 1075.109(b) sets forth several circumstances in which making payments to a class of victims will be deemed impracticable. Under this section, it will be deemed impracticable to make payments to a class of victims if:

1. The expected aggregate actual payment to the class of victims is too small to justify the costs of locating the victims in the class and making payments to them. This could occur, for example, in some circumstances where the Fund Administrator expects to have limited success in distributing payments to a class. For instance, suppose that there are 1,000 victims in a class who each have $50 in uncompensated harm, and that it will cost $10 per victim to distribute payments. In addition, the Fund Administrator has information indicating she is likely to be able to locate only 100 victims, but she does not know which 100 victims. Thus, it would cost $10,000 to attempt to make payments to the class, and in the end victims would receive an aggregate payment of only $5,000 (100 victims × $50 each). In those circumstances, the costs of attempting to make payments to the class may be too great in light of the aggregate actual payment to the class.

2. It would be impracticable under paragraph (a) of this section to make a payment to any victim in the class. This situation could arise, for example, where each victim's payment would be $10 or less and it would cost $10 or more per victim to distribute payments.

3. The Fund Administrator determines that other circumstances make it unreasonable to make payments to the class.

Section 1075.110 Reporting Requirements

Section 1075.110 requires the Fund Administrator to issue regular reports, on at least an annual basis, that describe how funds in the Civil Penalty Fund have been allocated, the basis for those allocations, and how funds that have been allocated to classes of victims have been distributed. The section further provides that these reports will be made available to the public on *www.consumerfinance.gov.*

V. Section 1022(b)(2) of the Dodd-Frank Act

A. Overview

In developing the final rule, the Bureau has considered potential benefits, costs, and impacts, and consulted or offered to consult with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Trade Commission, including with regard to consistency with any prudential, market, or systemic objectives administered by those agencies.[16]

The rule establishes the position of Fund Administrator and delegates to that official certain powers and responsibilities relating to the administration of the Civil Penalty Fund. The rule also describes the victims who are eligible for payments from the Civil Penalty Fund and the amounts of payments they may receive. In particular, the rule explains the Bureau's understanding of what

[15] *Cf. Consolidated Edison* v. *Bodman,* 477 F. Supp. 2d 198, 201–02 (D.D.C. 2007) (instruction to make payments ''insofar as practicable'' permitted agency to adjust payment schedule so that it would not be making small payments to a large number of claimants).

[16] Section 1022(b)(2)(A) of the Dodd-Frank Act, 12 U.S.C. 55212(b)(2), directs the Bureau, when prescribing a rule under the Federal consumer financial laws, to consider the potential benefits and costs of regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on insured depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas. Section 1022(b)(2)(B) of the Dodd-Frank Act directs the Bureau to consult with appropriate prudential regulators or other Federal agencies regarding consistency with prudential, market, or systemic objectives that those agencies administer. The manner and extent to which these provisions apply to a rulemaking of this kind that does not establish standards of conduct is unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the described analyses and consultations.

payments would be ''practicable,'' within the meaning of the word as used in section 1017(d)(2) of the Dodd-Frank Act. The rule sets forth the procedures by which the Fund Administrator will allocate funds to classes of victims and, when funds are available, to programs for consumer education and financial literacy and provides mechanisms for paying the allocated funds to victims. Finally, the rule requires the Fund Administrator to report periodically on disbursements from the Civil Penalty Fund.

B. Potential Benefits and Costs to Consumers and Covered Persons

The analysis considers the benefits, costs, and impacts of the rule against a statutory baseline. That is, the analysis evaluates the benefits, costs, and impacts of the rule as compared to the statute without an implementing rule.[17]

The rule does not impose any obligations on consumers or covered persons. The rule provides expeditious procedures for allocating funds from the Civil Penalty Fund to implement section 1017(d) of the Dodd-Frank Act. Although a rule is not necessary to implement this statutory provision, the rule establishes consistent procedures applicable with respect to all victims who might receive payments from the Civil Penalty Fund. By explaining how funds will be allocated and distributed, the rule provides clarity and predictability to those consumers who are victims of unlawful activity and might anticipate payments from the Fund.

Moreover, the efficiency of the rule's procedures should help keep the administrative costs of making payments relatively low. Because, as discussed above, the Bureau may pay such administrative expenses from the Civil Penalty Fund, reducing those costs will generally increase the amount of money available for payments to victims and, when appropriate, for consumer education and financial literacy programs. In addition, adopting a rule, instead of permitting the Fund Administrator to distribute payments to victims on an *ad hoc* basis, may have some distributional impacts. The Fund Administrator's case-by-case decisions might, by comparison to the results prescribed by the rule, lead to payments to different consumers of differing amounts, or could lead to greater or lesser amounts being available for consumer education and financial literacy programs.

C. Potential Specific Impacts of the Proposed Rule

The final rule does not have a unique impact on rural consumers or on insured depository institutions or insured credit unions with less than $10 billion in assets as described in section 1026(a) of the Dodd-Frank Act. Nor is the rule expected to reduce consumers' access to consumer financial products or services.

VI. Regulatory Requirements

This rule relates to benefits, namely payments that victims may receive from the Civil Penalty Fund. Pursuant to 5 U.S.C. 553(a)(2), this rule is therefore exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). In addition, this rule concerns matters of agency organization, procedure, and practice, and in part articulates the Bureau's interpretations of the Dodd-Frank Act. It is therefore also exempt from the APA's notice and comment rulemaking requirements pursuant to 5 U.S.C. 553(b).

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

VII. Paperwork Reduction Act

The Bureau has determined that this final rule does not impose any new recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would constitute collections of information requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 12 CFR Part 1075

Administrative practice and procedure, Authority delegations, Consumer Financial Civil Penalty Fund, Consumer protection, Organization and functions.

Authority and Issuance

■ For the reasons set forth in the preamble, the Bureau amends Chapter X in Title 12 of the Code of Federal Regulations by adding part 1075 to read as follows:

PART 1075—CONSUMER FINANCIAL CIVIL PENALTY FUND RULE

Sec.

Authority: 12 U.S.C. 5512(b)(1), 5497(d).

§ 1075.100 Scope and purpose.

Section 1017(d)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111–203, 124 Stat. 1978 (12 U.S.C. 5497(d)) (Dodd-Frank Act) establishes the ''Consumer Financial Civil Penalty Fund.'' This part describes the conditions under which victims will be eligible for payments from the Consumer Financial Civil Penalty Fund and the amounts of the payments they may receive. This part also establishes procedures and guidelines for allocating funds from the Consumer Financial Civil Penalty Fund to classes of victims and distributing such funds to individual victims, and for allocating funds to consumer education and financial literacy programs. This part also establishes reporting requirements.

§ 1075.101 Definitions.

For the purposes of this part, the following definitions apply:

Bureau means the Bureau of Consumer Financial Protection.

Bureau enforcement action means any judicial or administrative action or proceeding in which the Bureau has obtained relief with respect to a violation.

Chief Financial Officer means the Chief Financial Officer of the Bureau or any Bureau employee to whom that officer has delegated authority to act under this part. In the absence of a Chief Financial Officer of the Bureau, the Director shall designate an alternative official of the Bureau to perform the functions of the Chief Financial Officer under this part.

Civil Penalty Fund means the Consumer Financial Civil Penalty Fund established by 12 U.S.C. 5497(d).

Civil Penalty Fund Governance Board means the body, comprised of senior Bureau officials, established by the Director of the Bureau to advise on matters relating to the Civil Penalty Fund.

Class of victims means a group of similarly situated victims who suffered harm from the same or similar violations for which the Bureau obtained relief in a Bureau enforcement action.

[17] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits and costs and the appropriate baseline.

Defendant means a party in a Bureau enforcement action that is found or alleged to have committed a violation.

Final order means a consent order or settlement issued by a court or by the Bureau, or an appealable order issued by a court or by the Bureau as to which the time for filing an appeal has expired and no appeals are pending. For purposes of this definition, ''appeals'' include petitions for reconsideration, review, rehearing, and certiorari.

Person means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

Redress means any amounts—including but not limited to restitution, refunds, and damages—that a final order requires a defendant:

(1) To distribute, credit, or otherwise pay to those harmed by a violation; or

(2) To pay to the Bureau or another intermediary for distribution to those harmed by the violation.

Victim means a person harmed as a result of a violation.

Violation means any act or omission that constitutes a violation of law for which the Bureau is authorized to obtain relief pursuant to 12 U.S.C. 5565(a).

§ 1075.102 Fund administrator.

(a) *In general.* There is established the position of Civil Penalty Fund Administrator (Fund Administrator). The Fund Administrator will report to the Chief Financial Officer. The Chief Financial Officer may, to the extent permitted by applicable law, relieve the Fund Administrator of the duties of that position without notice, without cause, and prior to the naming of a successor Fund Administrator.

(b) *Powers and duties.* The Fund Administrator will have the powers and duties assigned to that official in this part.

(c) *Interpretation of these regulations.* (1) On its own initiative or at the Fund Administrator's request, the Civil Penalty Fund Governance Board may advise or direct the Fund Administrator on the administration of the Civil Penalty Fund, including regarding the interpretation of this part and its application to particular facts and circumstances.

(2) The Fund Administrator must follow any written directions that the Civil Penalty Fund Governance Board provides pursuant to paragraph (c)(1) of this section.

(d) *Unavailability of the Fund Administrator.* If there is no Fund Administrator or if the Fund Administrator is otherwise unavailable, the Chief Financial Officer will perform the functions and duties of the Fund Administrator.

§ 1075.103 Eligible victims.

A victim is eligible for payment from the Civil Penalty Fund if a final order in a Bureau enforcement action imposed a civil penalty for the violation or violations that harmed the victim.

§ 1075.104 Payments to victims.

(a) *In general.* The Bureau will use funds in the Civil Penalty Fund for payments to compensate eligible victims' uncompensated harm, as described in to paragraph (b) of this section.

(b) *Victims' uncompensated harm.* (1) A victim's uncompensated harm is the victim's compensable harm, as described in paragraph (c) of this section, minus any compensation for that harm that the victim has received or is reasonably expected to receive.

(2) For purposes of paragraph (b)(1) of this section, a victim has received or is reasonably expected to receive compensation in the amount of:

(i) Any Civil Penalty Fund payment that the victim has previously received or will receive as a result of a previous allocation from the Civil Penalty Fund to the victim's class;

(ii) Any redress that a final order in a Bureau enforcement action orders to be distributed, credited, or otherwise paid to the victim, and that has not been suspended or waived and that the Chief Financial Officer has not determined to be uncollectible; and

(iii) Any other redress that the Bureau knows that has been distributed, credited, or otherwise paid to the victim, or has been paid to an intermediary for distribution to the victim, to the extent that:

(A) That redress compensates the victim for the same harm as would be compensated by a Civil Penalty Fund payment; and

(B) It is not unduly burdensome, in light of the amounts at stake, to determine the amount of that redress or the extent to which it compensates the victim for the same harm as would be compensated by a Civil Penalty Fund payment.

(3) If the Fund Administrator deems it impracticable to assess the uncompensated harm of individual victims in a class, each individual victim's uncompensated harm will be the victim's share of the aggregate uncompensated harm of the victim's class.

(c) *Victims' compensable harm.* Victims' compensable harm for purposes of this part is as follows:

(1) If a final order in a Bureau enforcement action ordered redress for a class of victims, the compensable harm of each victim in the class is equal to that victim's share of the total redress ordered, including any amounts that are suspended or waived.

(2) If a final order in a Bureau enforcement action does not order redress for a class of victims, those victims' compensable harm is as follows:

(i) If the Bureau sought redress for a class of victims but a court or administrative tribunal denied that request for redress in the final order, the victims in that class have no compensable harm.

(ii) Except as provided in paragraph (c)(2)(i) of this section, if the final order in the Bureau enforcement action specifies the amount of the victims' harm, including by prescribing a formula for calculating that harm, each victim's compensable harm is equal to that victim's share of the amount specified.

(iii) Except as provided in paragraph (c)(2)(i) of this section, if the final order in the Bureau enforcement action does not specify the amount of the victims' harm, each victim's compensable harm is equal to the victim's out-of-pocket losses that resulted from the violation or violations for which a civil penalty was imposed, except to the extent such losses are impracticable to determine.

§ 1075.105 Allocating funds from the Civil Penalty Fund—in general.

(a) *In general.* The Fund Administrator will allocate Civil Penalty Fund funds specified in paragraph (c) of this section to classes of victims and to consumer education and financial literacy programs as appropriate according to the schedule established in paragraph (b) of this section and the guidelines established in §§ 1075.106 and 1075.107.

(b) *Schedule for making allocations.* (1) Within 60 days of May 7, 2013, the Fund Administrator will establish, and publish on *www.consumerfinance.gov*, a schedule for allocating funds in the Civil Penalty Fund, in accordance with the following:

(i) The schedule will establish six-month periods and identify the start and end dates of those periods. The start date of one period will be the day immediately after the end date of the preceding period.

(ii) Notwithstanding paragraph (b)(1)(i) of this section, the first and second periods may be longer or shorter than six months to allow future six-month periods to start and end on dates that better serve administrative

efficiency. The first and second periods will constitute ''six-month periods'' under this part regardless of their actual length.

(iii) The start date of the first period is July 21, 2011.

(2) Within 60 days after the end of a six-month period, the Fund Administrator will allocate available funds in the Civil Penalty Fund in accordance with §§ 1075.106 and 1075.107.

(3) If the Civil Penalty Fund Governance Board determines that the schedule established under paragraph (b)(1) of this section should be changed to better serve administrative efficiency, it may change that schedule by directing the Fund Administrator to publish the new schedule on *www.consumerfinance.gov*. Any new schedule must comply with paragraph (b)(1)(i) of this section. The first period of any new schedule may be shorter or longer than six months. That first period will constitute a ''six-month period'' under this part regardless of its actual length.

(c) *Funds available for allocation.* The funds available for allocation following the end of a six-month period are those funds that were in the Civil Penalty Fund on the end date of that six-month period, minus:

(1) Any funds already allocated,

(2) Any funds that the Fund Administrator determines are necessary for authorized administrative expenses, and

(3) Any funds collected pursuant to an order that has not yet become a final order.

§ 1075.106 Allocating funds to classes of victims.

(a) *Allocations when there are sufficient funds available to compensate all uncompensated harm.* If the funds available under § 1075.105(c) are sufficient, the Fund Administrator will allocate to each class of victims the amount necessary to compensate fully the uncompensated harm, determined under § 1075.104(b) as of the last day of the most recently concluded six-month period, of all victims in that class to whom it is practicable to make payments.

(b) *Allocations when there are insufficient funds available to compensate all uncompensated harm.* If the funds available under § 1075.105(c) are not sufficient to make the allocations described in paragraph (a) of this section, the Fund Administrator will allocate the available funds to classes of victims as follows:

(1) *Priority to classes of victims from the most recent six-month period.* The Fund Administrator will first allocate funds to classes of victims from the most recently concluded six-month period, as determined under paragraph (b)(2) of this section. If funds remain after allocating to each class of victims from that six-month period the amount necessary to compensate fully the uncompensated harm, determined under § 1075.104(b) as of the last day of the most recently concluded six-month period, of all victims in that class to whom it is practicable to make payments, the Fund Administrator next will allocate funds to classes of victims from the preceding six-month period, and so forth until no funds remain.

(2) *Assigning classes of victims to a six-month period.* For purposes of this paragraph (b), the Fund Administrator will assign each class of victims to the six-month period in which the victims first had uncompensated harm as described in § 1075.104(b). When a class of victims first had uncompensated harm as described in § 1075.104(b) will be determined as follows:

(i) If redress was ordered for a class of victims in a Bureau enforcement action but suspended or waived in whole or in part, the class of victims first had uncompensated harm as described in § 1075.104(b) on the date the suspension or waiver became effective.

(ii) If redress was ordered for a class of victims in a Bureau enforcement action but determined by the Chief Financial Officer to be uncollectible in whole or in part, the class of victims first had uncompensated harm as described in § 1075.104(b) on the date the Chief Financial Officer made that determination.

(iii) If no redress was ordered for a class of victims in a Bureau enforcement action, the class of victims first had uncompensated harm as described in § 1075.104(b) on the date the order imposing a civil penalty became a final order.

(c) *No allocation to a class of victims if making payments would be impracticable.* Notwithstanding any other provision in this section, the Fund Administrator will not allocate funds available under § 1075.105(c) to a class of victims if she determines that making payments to that class of victims would be impracticable.

(d) *Fund Administrator's discretion.* (1) Notwithstanding any provision in this part, the Fund Administrator, in her discretion, may depart from the procedures specified by this section, including by declining to make, or altering the amount of, any allocation provided for by this section. Whenever the Fund Administrator exercises this discretion, she will provide the Civil Penalty Fund Governance Board a written explanation of the reason for departing from the procedures specified by this section.

(2) If, in allocating funds during a given time period described in § 1075.105(b)(2), the Fund Administrator exercises her discretion under paragraph (d)(1) of this section, she may allocate funds to consumer education and financial literacy programs under 1075.107 during that time period only to the same extent she could have absent that exercise of discretion.

§ 1075.107 Allocating funds to consumer education and financial literacy programs.

(a) If funds available under § 1075.105(c) remain after the Fund Administrator allocates funds as described in § 1075.106(a), the Fund Administrator may allocate those remaining funds for consumer education and financial literacy programs.

(b) The Fund Administrator shall not have the authority to allocate funds to particular consumer education or financial literacy programs or otherwise to select the particular consumer education or financial literacy programs for which allocated funds will be used.

§ 1075.108 Distributing payments to victims.

(a) *Designation of a payments administrator.* Upon allocating Civil Penalty Fund funds to a class of victims pursuant to § 1075.106, the Fund Administrator will designate a payments administrator who will be responsible for distributing payments to the victims in that class. A payments administrator may be any person, including a Bureau employee or contractor.

(b) *Distribution plan.* The payments administrator must submit to the Fund Administrator a proposed plan for the distribution of funds allocated to a class of victims. The Fund Administrator will approve, approve with modifications, or disapprove the proposed distribution plan. If the Fund Administrator disapproves a proposed plan, the payments administrator must submit a new proposed plan.

(c) *Contents of plan.* The Fund Administrator will instruct the payments administrator to prepare a distribution plan and may require that plan to include:

(1) Procedures for determining the amount each victim will receive. Such procedures may, but need not, include a process for submitting and approving claims.

(2) Procedures for locating and notifying victims eligible or potentially eligible for payment.

(3) The method or methods by which the payments will be made.

(4) The method or methods by which potentially eligible victims may contact the payments administrator.

(5) Any other provisions that the Fund Administrator deems appropriate.

(d) *Distribution of payments.* The payments administrator will make payments to victims in a class, except to the extent such payments are impracticable, in accordance with the distribution plan approved under paragraph (b) of this section and subject to the Fund Administrator's supervision.

(e) *Disposition of funds remaining after attempted distribution to a class of victims.* If funds allocated to a class of victims remain after a payments administrator distributes payments to that class, the payments administrator will distribute those remaining funds as follows:

(1) To the extent practicable, the payments administrator will distribute those remaining funds to victims in that class up to the amount of their remaining uncompensated harm as described in § 1075.104(b).

(2) Any remaining funds that cannot be distributed pursuant to paragraph (e)(1) of this section will be returned to the Civil Penalty Fund.

§ 1075.109 When payments to victims are impracticable.

(a) *Individual payments.* Making a payment to an individual victim will be deemed impracticable if:

(1) The payment to the victim would be of such a small amount that the victim would not be likely to redeem the payment;

(2) The payment to the victim is too small to justify the cost of locating the victim and making the payment;

(3) The victim cannot be located with effort that is reasonable in light of the amount of the payment;

(4) The victim does not timely submit information that a distribution plan requires to be submitted before a payment will be made;

(5) The victim does not redeem the payment within a reasonable time; or

(6) The Fund Administrator determines that other circumstances make it unreasonable to make a payment to the victim.

(b) *Payments to a class of victims.* Making payments to a class of victims will be deemed impracticable if:

(1) The expected aggregate actual payment to the class of victims is too small to justify the costs of locating the victims in the class and making payments to them;

(2) It would be impracticable under paragraph (a) of this section to make a payment to any victim in the class; or

(3) The Fund Administrator determines that other circumstances make it unreasonable to make payments to the class.

§ 1075.110 Reporting requirements.

The Fund Administrator must issue regular reports, on at least an annual basis, that describe how funds in the Civil Penalty Fund have been allocated, the basis for those allocations, and how funds that have been allocated to classes of victims have been distributed. These reports will be made available on *www.consumerfinance.gov.*

Dated: April 26, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–10320 Filed 5–6–13; 8:45 am]

BILLING CODE 4810–AM–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 127

RIN 3245–AG55

Women-Owned Small Business Federal Contract Program

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is amending its regulations to implement Section 1697 of the National Defense Authorization Act for Fiscal Year 2013 (NDAA). Section 1697 of the NDAA removed the statutory limitation on the dollar amount of a contract that women-owned small businesses can compete for under the Women-Owned Small Business (WOSB) Program. As a result, contracting officers may now set-aside contracts under the WOSB Program at any dollar level, as long as the other requirements for a set-aside under the program are met.

DATES: *Effective Date:* This rule is effective on May 7, 2013.

Applicability Date: This rule applies to all solicitations issued on or after the effective date.

Comment Date: Comments must be received on or before June 6, 2013.

ADDRESSES: You may submit comments, identified by RIN 3245–AG55 by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov* and follow the instructions for submitting comments.
- *Mail, for paper, disk, or CD–ROM submissions:* LeAnn Delaney, Assistant Director, Office of Contract Assistance, 409 Third Street SW., Washington, DC 20416.
- *Hand Delivery/Courier:* LeAnn Delaney, Assistant Director, Office of Contract Assistance.

SBA will post all comments on *http://www.Regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.Regulations.gov*, please submit the information to LeAnn Delaney and highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will review the information and make a final determination of whether the information will be published or not.

FOR FURTHER INFORMATION CONTACT: LeAnn Delaney, Assistant Director, Office of Contract Assistance, at (202) 205–6460 or by email at *wosb@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Women-Owned Small Business (WOSB) Program, set forth in section 8(m) of the Small Business Act, 15 U.S.C. 637(m), authorizes Federal contracting officers to restrict competition to eligible Women-Owned Small Businesses (WOSBs) or Economically Disadvantaged Women-Owned Small Business (EDWOSBs) for Federal contracts in certain industries. Section 8(m) of the Small Business Act (Act) sets forth certain criteria for the WOSB Program, including the eligibility and contract requirements for the program. For example, the Act had stated that contracting officers could only set-aside a requirement under the program if the anticipated award price of the contract did not exceed $5 million in the case of manufacturing contracts and $3 million in the case of all other contracts. Recently, SBA had amended its regulations to adjust these statutory thresholds for inflation so that the anticipated award price of the contract awarded under the WOSB Program must not exceed $6.5 million in the case of manufacturing contracts and $4 million in the case of all other contracts. *See* 77 FR 1861 (Jan. 12, 2012).

Even with this adjustment for inflation, these dollar value restrictions on awards under the program limited a contracting officer's ability to set-aside contracts for WOSBs or EDWOSBs. As a result, Section 1697 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112–239, amended the Small Business Act and

removed these dollar value limitations. As a result, contracting officers may now set-aside any contract for EDWOSBs or WOSBS under the program if: (1) There is a reasonable expectation that, in industries in which WOSBs are underrepresented, two or more EDWOSBs will submit offers for the contract or, in industries where WOSBs are substantially underrepresented, two or more WOSBs will submit offers for the contract; and (2) in the estimation of the contracting officer, the contract can be awarded at a fair and reasonable price. The anticipated contract can be for any dollar amount.

II. Section-by-Section Analysis

In order to implement this statutory change, SBA is amending § 127.503(a)(2) and § 127.503(b)(2) by removing the anticipated contract dollar thresholds for determining when the contracting officer may set-aside a requirement for WOSBs or EDWOSBs. Therefore, the regulation now contains no limitation on the anticipated award price for a WOSB or EDWOSB set-aside.

III. Justification for Publication as an Interim Final Rule

In general, SBA publishes a rule for public comment before issuing a final rule in accordance with the Administrative Procedures Act (APA) and SBA regulations. 5 U.S.C. 553 and 13 CFR 101.108. The APA provides an exception to this standard rulemaking process where an agency finds good cause to adopt a rule without prior public participation. 5 U.S.C. 553(b)(3)(B). The good cause requirement is satisfied when prior public participation is impracticable, unnecessary, or contrary to the public interest. Under such circumstances, an agency may publish an interim final rule without soliciting public comment.

First, SBA believes that Section 1697 of the NDAA is effective immediately; the section does not require SBA to issue regulations in order to implement the provisions. However, SBA must remove the limitations in its regulations or they would be inconsistent with the statute, and lead to confusion among the public and other federal agencies. Since SBA is merely conforming its regulations to the statute without interpretation or policy changes, the Agency does not believe that it is necessary to issue the rule as a proposed rule.

Second, according to the Small Business Goaling Report for Fiscal Year 2011, the Federal government awarded only 3.97% of its contracts to WOSBs. *See http://www.fpdsng.com/fpdsng_cms/index.php/reports.* This is short of the statutory 5% goal for WOSBs. The purpose of the WOSB Program is to assist agencies in achieving the statutorily mandated 5% government-wide goal for procurement from women-owned small businesses. By removing the limitations on the dollar amount of a contract award that can be set-aside for WOSBs or EDWOSBs in the regulations, the SBA will be clarifying that there are more contracting opportunities for WOSBs, which should result in more contracts being awarded to this group of small businesses. Consequently, the SBA believes it is necessary to implement this rule as quickly as possible.

Finally, we note that the public will still have the opportunity to offer comments on this rule, which will be reviewed by the SBA. Accordingly, SBA finds that good cause exists to publish this rule as an interim final rule as quickly as possible.

IV. Justification for Immediate Effective Date of Interim Final Rule

The APA requires that ''publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). SBA finds that good cause exists to make this final rule effective the same day it is published in the **Federal Register**.

The purpose of the APA provision is to provide interested and affected members of the public sufficient time to adjust their behavior before the rule takes effect. For the reasons set forth above in Section III, ''Justification for Publication as Interim Final Rule'', SBA finds that good cause exists for making this interim final rule effective immediately, instead of observing the 30-day period between publication and effective date. Nonetheless, the public may provide comments to SBA by the deadline for comments. SBA will review any comments received.

V. Compliance With Executive Orders 12866, 12988, 13132, and the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does constitute a significant regulatory action under E.O. 12866; however this is not a major rule under the Congressional Review Act (CRA), 5 U.S.C. 800. Accordingly, the next section contains SBA's Regulatory Impact Analysis.

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

This regulatory action amends regulations that implement Section 1697 of the NDAA. These amendments are necessary because without such amendments the SBA's WOSB Program rule will conflict with the statute. Such conflict and inconsistency causes confusion to members of the procurement community, including small businesses, and could limit the number of contracts available to WOSBs and EDWOSBs under the program.

2. What are the potential benefits and costs of this regulatory action?

The benefits of this rule are that there will not be a conflict between the SBA's rules and the statute, and more contracts should be available for WOSBs and EDWOSBs under the program.

3. What are the alternatives to this final rule?

SBA does not believe there are any alternatives other than to implement the statute, as enacted.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For the purpose of Executive Order 13132, SBA has determined that the interim final rule 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 SBA has determined that this interim final rule has no federalism implications warranting the preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C., Ch. 35

For the purpose of the Paperwork Reduction Act, 44 U.S.C., Chapter 35, SBA has determined that this rule does not impose additional reporting or recordkeeping requirements.

Regulatory Flexibility Act (RFA), 5 U.S.C., 601–612

Because this rule is an interim final rule, there is no requirement for SBA to

prepare an Initial Regulatory Flexibility Act analysis. The RFA requires administrative agencies to consider the effect of their actions on small entities, small non-profit businesses, and small local governments. Pursuant to the RFA, when an agency issues a rule the agency must prepare analysis that describes whether the impact of the rule will have a significant economic impact on a substantial number of small entities. However, the RFA requires such analysis only where notice and comment rulemaking is required but as discussed above, SBA has determined that there is good cause to publish this interim final rule without the need for public notice and comment.

List of Subjects in 13 CFR Part 127

Administrative practice and procedure, Government procurement, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, SBA amends 13 CFR Part 127 as follows:

PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

■ 1. The authority citation for part 127 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 637(m), and 644.

■ 2. Amend § 127.503 by revising paragraphs (a)(1), (a)(2), (b)(1) and (b)(2) to read as follows:

§ 127.503 When is a contracting officer authorized to restrict competition under this part?

(a) * * *

(1) Two or more EDWOSBs will submit offers for the contract; and

(2) Contract award may be made at a fair and reasonable price.

(b) * * *

(1) Two or more WOSBs will submit offers (this includes EDWOSBs, which are also WOSBs); and

(2) Contract award may be made at a fair and reasonable price.

* * * * *

Karen G. Mills,

Administrator.

[FR Doc. 2013–10841 Filed 5–3–13; 4:15 pm]

BILLING CODE 8025–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9618]

RIN 1545–BJ19

Disclosure of Returns and Return Information to Designee of Taxpayer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations extending the period for submission to the IRS of taxpayer authorizations permitting disclosure of returns and return information to third-party designees. Specifically, the final regulations extend from 60 days to 120 days the period within which a signed and dated authorization must be received by the IRS (or an agent or contractor of the IRS) for it to be effective. The final regulations will affect taxpayers who submit authorizations permitting disclosure of returns and return information to third-party designees.

DATES:

Effective date: The final regulations are effective on May 7, 2013.

Applicability date: For date of applicability, see § 301.6103(c)–1(f).

FOR FURTHER INFORMATION CONTACT: Amy Mielke, (202) 622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in the final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1816.

The collection of information in these final regulations is in § 301.6103(c)–1(b)(2). This information is required by the IRS to identify the return or return information described in the request or consent; to search for and, where found, compile such return or return information; and to identify the person to whom any such return or return information is to be provided.

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

Books and records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

Background

This document contains amendments to the Procedure and Administration Regulations (26 CFR part 301), and amends § 301.6103(c)–1 by extending the period for submission to the IRS of taxpayer authorizations permitting disclosure of returns and return information to designees of a taxpayer.

On December 18, 2009, the IRS published Notice 2010–8 2010–3 IRB 297 (available at IRS.gov), which announced the Treasury Department and the IRS's intent to amend the regulations under § 301.6103(c)–1 to expand the time frame for submission of section 6103(c) authorizations. The notice also announced interim rules extending from 60 days to 120 days the period within which section 6103(c) authorizations must be received to be effective. The time period was extended because some institutions charged with assisting taxpayers in their financial dealings encountered difficulty in obtaining written authorizations and submitting the authorizations within the 60-day period allowed by the existing regulations. The interim rules apply to authorizations signed and dated on or after October 19, 2009.

The Treasury Department and the IRS published a notice of proposed rulemaking (REG–153338–09) in the **Federal Register**, 76 FR 14827, on March 18, 2011, which adopted the interim rule in Notice 2010–8. A public hearing was scheduled for June 9, 2011. The IRS did not receive any requests to testify at the public hearing, and the public hearing was cancelled. One written comment responding to the NPRM was received and is available for public inspection at *http://www.regulations.gov* or upon request. After consideration of the comment, the proposed regulations are adopted by this Treasury decision without change.

Explanation and Summary of Comments

The IRS received one comment in response to the NPRM. The commentator agreed that the period for submission of authorizations to allow for the disclosure of taxpayer information to third-party designees should be expanded. The commentator specifically suggested that any reasonable time period beyond 120 days also be considered. The Treasury Department and the IRS have concluded

that the 120-day period is a sufficient extension of time to assist taxpayers whose designees have encountered difficulty in obtaining and submitting the written authorizations. The 120-day period is a reasonable limitation on the effective period of written authorizations that helps ensure the currency of the authorization while protecting taxpayer privacy. After carefully considering the comment, the proposed regulations are adopted without modification.

Effect on Other Documents

The following publication is obsolete as of May 7, 2013: Notice 2010–8, 2010–3 IRB 297.

Special Analyses

It has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding the final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses, and no comments were received from that office.

When an agency issues a final rule, the Regulatory Flexibility Act (5 U.S.C. chapter 6) (RFA), requires the agency to ''prepare a final regulatory flexibility analysis.'' (5 U.S.C. 604(a)). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities. It is hereby certified that the collection of information in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that any burden on taxpayers is minimal, since the regulation applies only to taxpayers who request or consent to the disclosure of their own returns or return information, and since the information collected is only that necessary to carry out the disclosure of returns or return information requested or consented to by the taxpayer (such as the name and taxpayer identification number of the taxpayer, the return or return information to be disclosed, and the identity of the designee). Moreover, the certification is based upon the fact that the regulation reduces the burden imposed upon taxpayers by the prior regulation by extending the period in which consents may be received by the IRS. Accordingly, a Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of the final regulations is Amy Mielke, Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 301.6103(c)–1 is amended by revising paragraphs (b)(2) and (f), and adding paragraph (g) to read as follows:

§ 301.6103(c)–1 Disclosure of returns and return information to designee of taxpayer.

* * * * *

(b) * * *

(2) *Requirement that request or consent be received within one hundred twenty days of when signed and dated.* The disclosure of a return or return information authorized by a written request for or written consent to the disclosure shall not be made unless the request or consent is received by the Internal Revenue Service (or an agent or contractor of the Internal Revenue Service) within 120 days following the date upon which the request or consent was signed and dated by the taxpayer.

* * * * *

(f) *Applicability date.* This section is applicable on April 29, 2003, except that paragraph (b)(2) is applicable to section 6103(c) authorizations signed on or after October 19, 2009.

(g) *Effective date.* This section is effective on April 29, 2003, except that paragraphs (b)(2) and (f) are effective on May 7, 2013.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: April 25, 2013.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–10738 Filed 5–6–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 733

Assistance to and Support of Dependents; Paternity Complaints

CFR Correction

In Title 32 of the Code of Federal Regulations, Parts 700 to 799, revised as of July 1, 2012, on pages 371 and 372, in § 733.3, paragraphs (b)(3) through (8) are correctly redesignated as paragraphs (a)(3) through (8).

[FR Doc. 2013–10963 Filed 5–6–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 751

Personnel Claims Regulations

CFR Correction

In Title 32 of the Code of Federal Regulations, Parts 700 to 799, revised as of July 1, 2012, on page 418, in § 751.6, in paragraph (c)(5), the second sentence is reinstated to read as follows:

§ 751.6 Claims payable.

* * * * *

(c) * * *

(5) * * * Neither the passenger compartment nor the trunk of a vehicle is a proper place for the long-term storage of property unconnected with the use of the vehicle. * * *

* * * * *

[FR Doc. 2013–10965 Filed 5–6–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2013–0230]

Drawbridge Operation Regulations; Reynolds Channel, Nassau, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Long Beach Bridge, mile 4.7, across Reynolds Channel at Nassau, New York. Under this temporary deviation, the bridge may remain in the closed position for an hour and a half to facilitate a public event, the Town of Hempstead Annual Fireworks Display.

DATES: This deviation is effective between 9 p.m. and 10:30 p.m. on July 12, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0230] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil*, or (212) 668–7165. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Long Beach Bridge has a vertical clearance of 20 feet at mean high water, and 24 feet at mean low water in the closed position. The existing drawbridge operating regulations are found at 33 CFR 117.799(g).

The bridge owner, the County of Nassau Department of Public Works, requested a bridge closure to facilitate a public event, the Town of Hempstead Annual Fireworks Display.

Under this temporary deviation, the Long Beach Bridge may remain in the closed position between 9 p.m. and 10:30 p.m. on July 12, 2013.

Reynolds Creek has commercial and recreational vessel traffic. No objections were received from the waterway users.

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

Dated: April 24, 2013.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2013–10775 Filed 5–6–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0262]

Safety Zone; Fireworks Event in Captain of the Port New York Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zones in the Captain of the Port New York Zone on the specified dates and times. This action is necessary to ensure the safety of vessels and spectators from hazards associated with fireworks displays. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP).

DATES: The regulation for the safety zones described in 33 CFR 165.160 will be enforced on the dates and times listed in the table below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ensign Kimberly Beisner, Coast Guard; telephone 718–354–4163, email *Kimberly.A.Beisner@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.160 on the specified dates and times as indicated in Table 1 below. This regulation was published in the **Federal Register** on November 9, 2011 (76 FR 69614).

TABLE 1

1. Hope for Warriors Fireworks, Seaport, East River Safety Zone, 33 CFR 165.160(4.4).	• Launch site: All waters of the East River south of the Brooklyn Bridge and north of a line drawn from the southwest corner of Pier 3, Brooklyn, to the southeast corner of Pier 6, Manhattan. • Date: June 11, 2013. • Time: 8:30 p.m.–9:40 p.m.
2. Naders 40th Birthday, Newtown Creek, East River Safety Zone, 33 CFR 165.160(4.2).	• Launch site: A barge located in approximate position 40°44′24″ N, 073°58′00″ W (NAD 1983), approximately 785 yards south of Belmont Island. This Safety Zone is a 360-yard radius from the barge. • Date: June 15, 2013. • Time: 10:00 p.m.–11:10 p.m.
3. 2013 Independence Celebration Fireworks, Glen Cove, Hempstead Harbor Safety Zone, 33 CFR 165.160(3.8).	• Launch site: A barge located in approximate position 40°51′58″ N, 073°39′34″ W (NAD 1983), approximately 500 yards northeast of Glen Cove Breakwater Light 5 (LLNR 27065). This Safety Zone is a 360-yard radius from the barge. • Date: July 4, 2013. • Time: 8:45 p.m.–10:00 p.m.
4. City of Newburgh Celebration, Newburgh, NY, Hudson River Safety Zone, 33 CFR 165.160(3.8).	• Launch site: A barge located in approximate position 41°30′01.2″ N, 073°59′42.5″ W (NAD 1983), approximately 930 yards east of Newburgh New York. This Safety Zone is a 360-yard radius from the barge. • Date: July 4, 2013. • Time: 8:30 p.m.–10:10 p.m.

Under the provisions of 33 CFR 165.160, a vessel may not enter the regulated area unless given express permission from the COTP or the designated representative. Spectator vessels may transit outside the regulated area but may not anchor, block, loiter in, or impede the transit of other vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.160(a) and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: April 22, 2013.

G. Loebl,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2013–10774 Filed 5–6–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.133A–1]

Final Priority; National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects—Inclusive Cloud and Web Computing

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Disability Rehabilitation Research Projects and Centers Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this document announces a priority for a Disability Rehabilitation Research Project (DRRP) on inclusive cloud and Web computing. The Assistant Secretary may use this priority for a competition in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend this priority to improve outcomes for individuals with disabilities.

DATES: *Effective Date:* This priority is effective June 6, 2013.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Disability and Rehabilitation Research Projects

The purpose of NIDRR's DRRPs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act, by developing methods, procedures, and rehabilitation technologies that advance a wide range of independent living and employment outcomes for individuals with disabilities, especially individuals with the most severe disabilities. DRRPs carry out one or more of the following types of activities, as specified and defined in 34 CFR 350.13 through 350.19: research, training, demonstration, development, dissemination, utilization, and technical assistance.

An applicant for assistance under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds (34 CFR 350.40(a)). The approaches an applicant may take to meet this requirement are found in 34 CFR 350.40(b).

Additional information on the DRRP program can be found at: *http://www2.ed.gov/rschstat/research/pubs/res-program.html#DRRP.*

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priority for this program in the **Federal Register** on January 15, 2013 (78 FR 2919). That notice contained background information and our reasons for proposing the particular priority.

There are differences between the notice of proposed priority and this notice of final priority as discussed in the *Analysis of Comments and Changes* section in this notice. In addition, we inadvertently stated in the Summary section of the notice of proposed priority, that we intend this priority to contribute to improved employment outcomes for individuals with disabilities. NIDRR did not intend to convey that this priority is focused exclusively on employment outcomes for individuals with disabilities. We have corrected the summary statement in this notice.

Public Comment: In response to our invitation in the notice of proposed priority, four parties submitted comments.

Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Comment: One commenter suggested the priority address natural language processing and ways to determine how to make Web content and interactions easier to understand for individuals with mental disabilities. Specifically, the commenter suggested research on: ways to assess perceptions of individuals with mental disabilities, the effects of technology across multiple life contexts, and understandable cloud and Web computing languages.

Discussion: Determining how to make Web content and interactions easier to understand for individuals with mental disabilities is consistent with the proposed priority, which requires the DRRP to contribute to the development of an inclusive cloud and Web infrastructure that incorporates options for disability access within its general structure. Nothing in the priority would preclude an applicant from proposing research in this area. However, NIDRR

does not wish to further specify the research and development areas or target populations, because we do not want to limit the number and breadth of applications submitted under this priority. The peer review process will determine the merits of each proposal.

Change: None.

Comment: One commenter suggested the priority require the inclusion of individuals with disabilities on the teams that develop the cloud and Web technologies contemplated by the priority. In this context, the commenter also suggested that the proposed teams address authentication technology, such as easy-to-understand processes for logging onto the Web.

Discussion: NIDRR agrees that it is important for its grantees to include individuals with disabilities in research and development plans and activities. The *General Disability and Rehabilitation Research Projects Requirements* priority (71 FR 25472), which we apply to all DRRP competitions, requires that DRPPs ''involve individuals with disabilities in planning and implementing the DRPP's research, training, and dissemination activities, and in evaluating its work.'' This requirement allows all applicants the flexibility to propose how they will include individuals with disabilities in their activities.

The specific research and development topic suggested by the commenter—authentication technology—is consistent with the proposed priority, which requires the DRRP to contribute to the development of an inclusive cloud and Web infrastructure that incorporates options for disability access within its general structure. The peer review process will determine the merits of each proposal.

Change: None.

Comment: One commenter suggested that the priority address the creation of inclusive, cross-platform, Web-based applications that can be modified easily in response to user accessibility issues, as well as the development of tools to support testing user interfaces in leisure contexts.

Discussion: The topics suggested by the commenter are generally consistent with the priority. The priority requires the DRRP to contribute to the development of an inclusive cloud and Web infrastructure that incorporates options for disability access within its general structure, which would include modifiable options. Further, nothing in the priority would preclude an applicant from proposing research on user interfaces related to engagement in leisure activities. The peer review process will determine the merits of each proposal.

Change: None.

Comment: One commenter suggested that the priority address information management topics, including how to manage user profiles and accessibility options over time, as technology evolves. The commenter noted that research on information management by individuals with disabilities and those in their support circles is needed to determine how technology use may influence an individual's sense of time management, competence, and connectedness to others.

Discussion: The topics suggested by the commenter are consistent with the proposed priority, which requires the DRRP to contribute to the development of an inclusive cloud and Web infrastructure that incorporates options for disability access within its general structure. Nothing in the priority would preclude an applicant from proposing research in these areas. However, NIDRR does not wish to further specify the research requirements in the way suggested by the commenter because we do not want to limit the number and breadth of applications submitted under this priority. The peer review process will determine the merits of each proposal.

Change: None.

Comment: One commenter suggested that the priority address the social impact of individuals with disabilities sharing Web accessibility experiences and approaches. The commenter also suggested that the priority address research on the relationship between inclusive cloud and Web design and self-determination.

Discussion: NIDRR agrees that the social impact of cloud and Web technology is important, particularly as it affects participation and social networks. The topics suggested by the commenter may be consistent with the priority if they are framed to meet the purpose of the priority, which is to contribute to the development of an inclusive cloud and Web infrastructure that incorporates options for disability access within its general structure. This includes identifying, designing, prototyping, and assessing promising methods and systems for a cloud and Web infrastructure that addresses the needs of individuals with disabilities. For example, Table 1 of the priority includes a suggested research question, ''How to enable individuals with disabilities to share accessibility experiences and approaches.''

Change: None.

Comment: Three commenters stated that the needs of individuals with disabilities cannot be addressed with a sole focus on technology and that one of the primary factors limiting technology utilization for individuals with disabilities is the high poverty rate experienced by this population. The commenters noted the prohibitive costs of assistive technology required to use the Internet. The commenters recommended that the proposed priority be revised to include a focus on the relationship between poverty and disability.

Discussion: NIDRR agrees that poverty affects technology and Web utilization by individuals with disabilities, in part because individuals with disabilities currently are required to purchase separate accessibility software and assistive devices for each device they use to access the Web. However, the DRRP on inclusive cloud and Web computing is designed specifically to contribute to the development of an inclusive cloud and Web infrastructure that incorporates options for disability access within its general structure. A more inclusive infrastructure may reduce the need for individuals with disabilities to purchase separate equipment and thereby reduce the economic burden of Web use by individuals with disabilities.

Nothing in the priority precludes an applicant from proposing research questions specific to poverty, as long as the research questions are framed to meet the purpose and requirements of the priority. However, NIDRR does not wish to further specify the research requirements in the way suggested by the commenter because we do not want to limit the number and breadth of applications submitted under this priority. The peer review process will determine the merits of each proposal.

Change: None.

Comment: Three commenters stated that the proposed priority focuses on the development of technologies and products solely for the benefit of individuals with disabilities and recommended a change to make the final priority more focused on the development of universally designed products.

Discussion: For purposes of this priority, NIDRR uses the term ''inclusive cloud and Web infrastructure'' to mean the same thing as a ''universally designed'' cloud and Web infrastructure. An inclusive cloud and Web infrastructure is one that is accessible to a wide range of individuals, including individuals with disabilities. Contributions to the development of an inclusive cloud and Web infrastructure may reduce the need for specialized adaptations or the

purchase of assistive technology equipment.

NIDRR would also like to note that the purpose of the DRRP is not to develop technologies and products, as suggested by the commenter, but to develop methods of, systems for, and technical approaches to developing an inclusive cloud and Web infrastructure. The proposed priority requires the DRRP to ''identify, design, prototype, and assess promising methods and systems for, and technical approaches to designing, a cloud and Web infrastructure that addresses the needs of individuals with disabilities.'' If the grantee under this priority is successful in contributing to the development of a more universally-designed and inclusive cloud and Web infrastructure, there is likely to be a stronger foundation for the further development of universally designed products for widespread use, as suggested by the commenter.

Change: None.

Comment: Three commenters recommended that the final priority require research that is related to the employment of individuals with disabilities. The commenters also noted that none of the research questions included in Table 1 of the proposed priority addresses employment.

Discussion: NIDRR agrees that employment is a critical outcome for the population of individuals with disabilities. We have developed this priority because we believe that a more inclusive cloud and Web infrastructure is likely to contribute to improved employment outcomes for individuals with disabilities. With a more inclusive cloud and Web infrastructure, for example, individuals with disabilities are likely to have more direct access to the Web without the need for additional assistive technologies, thereby creating opportunities to search and apply for jobs and engage in work online.

The priority requires applicants to address at least one of the research questions in Table 1 but also allows applicants to focus on additional research questions not reflected in Table 1. If applicants choose to focus on additional research questions, such as those related to employment, they must explain how work on the additional question or questions will advance disability access in cloud and Web infrastructure design.

In sum, nothing in the priority precludes an applicant from proposing research related to employment, as long as the research questions are framed to meet the requirements of the priority. However, NIDRR does not wish to further specify the research requirements in the way suggested by the commenters because we do not want to limit the number and breadth of applications submitted under this priority. The peer review process will determine the merits of each proposal.

Change: None.

Comment: None.

Discussion: In the proposed priority, Table 1 is located in the background section, which will not be published as part of this notice of final priority. Because the contents of Table 1 are integral to the priority and its requirements, we are including it in the priority.

Change: NIDRR has included the text of Table 1 in the text of the final priority.

FINAL PRIORITY:

DRRP on Inclusive Cloud and Web Computing.

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for a Disability and Rehabilitation Research Project (DRRP) on inclusive cloud and Web computing. The DRRP must contribute to the development of an inclusive cloud and Web infrastructure that incorporates options for disability access within its general structure.

To contribute to this initiative, the DRRP must—

(1) Identify, design, prototype, and assess promising methods and systems for, and technical approaches to designing, a cloud and Web infrastructure that addresses the needs of individuals with disabilities. The DRRP must address at least one of the research questions outlined in Table 1. Applicants may also choose to address additional research questions not reflected in Table 1. In that case, the application must fully explain how work on the additional topic or topics proposed by the applicant will advance disability access in cloud and Web infrastructure design.

(2) Conduct knowledge translation activities (e.g., training, technical assistance, dissemination, collaboration) in order to facilitate use of the research results by key stakeholders (e.g., individuals with disabilities, computer scientists, other researchers and software developers working on accessibility technology, policy makers, international partners).

(3) Demonstrate meaningful involvement by key stakeholder groups (e.g., individuals with disabilities, computer scientists, software developers and researchers working on accessibility technology, policy makers, international partners) in order to maximize the relevance and usability of the research conducted under this priority. Involvement may include, but is not limited to, participation in a multidisciplinary research team, advisory board, focus group, or other participatory action research method.

TABLE 1—RESEARCH QUESTIONS OF IMPORTANCE IN DEVELOPING INCLUSIVE CLOUD AND WEB COMPUTING INFRASTRUCTURE

Research questions	Possible computer science approaches
How to make content and interactions easier to understand for individuals with mental disabilities	Natural language processing.
How to make it easier for individuals with disabilities to log on to the Web	Authentication technology.
How to change the presentation of information on Web pages to respond to difficulties encountered by individuals with disabilities.	Adaptive user interfaces.
How to manage user profiles and accessibility options over time, as technology evolves	Federated information management.
How to make software more easily modifiable to meet individual needs	Software architecture.
How to improve the ability of software tools to identify accessibility problems in documents	Automated user interface testing.
How to enable individuals with disabilities to share accessibility experiences and approaches	Social computing.
How to incorporate specific accessibility features (e.g., closed captioning, volume control, video description, screen reader technology, accessible user interfaces) into an inclusive Web infrastructure.	Software design.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years, as projects similar to the one envisioned by the final priority have been completed successfully. Establishing a new DRRP based on the final priority would generate new knowledge through research and development and improve the lives of individuals with disabilities. The new DRRP would generate, disseminate, and promote the use of new information that would improve the options for individuals with disabilities to perform regular activities of their choice in the community.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 1, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–10823 Filed 5–6–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Numbers: 84.133A–3 and 84.133A–9; 84.133A–4 and 84.133A–10; and 84.133A–5 and 84.133A–11]

Final Priorities and Definitions—NIDRR DRRP—Community Living and Participation, Health and Function, and Employment of Individuals With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priorities and definitions.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces priorities and definitions for the Disability and Rehabilitation Research Projects and Centers Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, we announce priorities and definitions for Disability and Rehabilitation Research Projects (DRRP) on Community Living and Participation of Individuals with Disabilities (Priority 1), Health and Function of Individuals with Disabilities (Priority 2), and Employment of Individuals with Disabilities (Priority 3).

If an applicant proposes to conduct research under these priorities, the research must be focused on one of the four stages of research defined in this notice of final priorities and definitions.

The Assistant Secretary for Special Education and Rehabilitative Services may use these priorities and definitions for competitions in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve community living and participation, health and function, and employment outcomes of individuals with disabilities.

DATES: *Effective Date:* These priorities and definitions are effective June 6, 2013.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

DRRPs

DRRPs carry out one or more of the following types of activities, as specified and defined in 34 CFR 350.13 through 350.19: research, training, demonstration, development, dissemination, utilization, and technical assistance. An applicant under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds (34 CFR 350.40(a)). The approaches an applicant may take to meet this requirement are found in 34 CFR 350.40(b).

Additional information on the DRRP program can be found at: *http://www2.ed.gov/rschstat/research/pubs/res-program.html#DRRP*.

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priorities and definitions for this program in the **Federal Register** on January 25, 2013 (78 FR 5330). That notice contained background information and our reasons for proposing these particular priorities and definitions.

There are differences between the notice of proposed priorities and definitions and this notice of final priorities and definitions as discussed in the *Analysis of Comments and Changes* section elsewhere in this notice.

Public Comment: In response to our invitation in the notice of proposed priorities and definitions, seven parties submitted comments on the proposed priorities.

Generally, we do not address technical and other minor changes or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in these priorities since publication of the notice of proposed priorities and definitions follows.

DRRP on Community Living and Participation of Individuals With Disabilities (Priority 1)

Comment: One commenter recommended that NIDRR revise the priority to require applicants to include Family-to-Family Health Information Centers, Parent Training and Information Centers, and Centers for Independent Living among the stakeholders under paragraph (1)(d).

Discussion: Applicants can propose collaboration with Family-to-Family Health Information Centers, Parent Training and Information Centers, and Centers for Independent Living. However, NIDRR does not believe that it should specify the stakeholders that applicants must involve in their research and development activities. The stakeholders recommended by the commenter may not be relevant to many of the research or development topics that could be proposed under this priority, and we do not want to limit the number and breadth of applications that could be submitted. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: Three commenters noted that socioeconomic barriers often magnify disability-related barriers to community living and participation. These commenters recommended that NIDRR focus this priority on the development of, or research on, interventions for improving community living and participation outcomes for low income and ethnic minority individuals with disabilities.

Discussion: Applicants are free to specify their target population as individuals with disabilities who are ethnic minorities or who have low income. The priority areas under paragraph (a) allow applicants to specify target populations of individuals with disabilities generally or within specific disability or demographic groups. NIDRR does not want to limit the

number and breadth of applications submitted under this priority by further specifying the target population. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: Three commenters recommended that NIDRR focus this priority on the use of social-networking tools to enhance community living and participation outcomes among people with disabilities.

Discussion: Applicants are free to propose research or development projects that focus on the use of social-networking tools to enhance community living and participation among individuals with disabilities. A focus on social-networking tools could be proposed under many of the priority areas that are listed under paragraph (1)(a). However, we do not want to limit the number and breadth of applications submitted under this priority by requiring all applicants to focus their proposed research or development activities on social-networking tools. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: Three commenters recommended that NIDRR should focus the priority on building the evidence base for peer mentoring and related community supports that are designed to enhance community living and participation outcomes of individuals with disabilities.

Discussion: Applicants are free to propose research or development projects that focus on peer mentoring and related community supports. A focus on peer mentoring and related community supports could be proposed under many of the priority areas that are listed under paragraph (1)(a). However, we do not want to limit the number and breadth of applications submitted under this priority area by requiring all applicants to focus their proposed research or development activities on peer mentoring or related supports. The peer review process will determine the merits of each proposal.

Changes: None.

Health and Function of Individuals With Disabilities (Priority 2)

Comment: One commenter suggested that NIDRR revise paragraph (1)(a)(iv) to require applicants to focus on the Affordable Care Act (ACA) as a policy contributing to improved health and function of individuals with disabilities. Further, the commenter suggested that the priority require applicants to conduct research on programs that highlight State-level implications of the ACA.

Discussion: NIDRR agrees that research related to ACA implementation at the State level is timely and potentially relevant to the health and function outcomes of individuals with disabilities. Applicants are free to propose research related to the ACA. However, NIDRR does not believe it should require applicants to focus on specific policies under paragraph (1)(a)(iv) or specify whether the research should be at the local, State, or national level. We also do not want to limit the number and breadth of applications submitted under this priority by precluding research or development related to other policies that are relevant to the health and function of individuals with disabilities. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: In relation to paragraph (1)(a)(vi) of the proposed priority, one commenter noted that transitions from pediatric to adult health care services and providers can be complex for youth with disabilities. To address this complexity, the commenter recommended that NIDRR revise the priority to require applicants to include Family-to-Family Health Information Centers and Centers for Independent Living among the stakeholders under paragraph (1)(d).

Discussion: NIDRR agrees that health care transitions may be a good topic for research or development activities under paragraph (1)(a)(vi). Applicants choosing to address this priority area are free to propose collaboration with Family-to-Family Health Information Centers and Centers for Independent Living. However, NIDRR does not want to further specify the stakeholders that applicants must involve in their research and development activities. The stakeholders recommended by the commenter may not be relevant to many of the research or development topics that could be proposed under this priority, and we do not want to limit the number and breadth of applications that could be submitted. The peer review process will determine the merits of each proposal.

Changes: None.

DRRP on Employment of Individuals With Disabilities (Priority 3)

Comment: One commenter recommended that NIDRR revise the priority to require applicants to include Parent Training and Information Centers and Centers for Independent Living among the stakeholders under paragraph (1)(d).

Discussion: Applicants are free to propose collaboration with Parent Training and Information Centers and Centers for Independent Living. However, NIDRR does not believe it should further specify the stakeholders that applicants must involve in their research and development activities. The stakeholders recommended by the commenter may not be relevant to many of the research or development topics that could be proposed under this priority. We do not want to limit the number and breadth of applications that could be submitted under this priority. The peer review process will determine the merits of each proposal.

Changes: None.

Comments on all three priorities:

Comment: One commenter noted that the best way to improve outcomes of individuals with disabilities is through local-level collaboration and planning. This commenter suggested that all three priorities require applicants to collaborate with stakeholders at the local level, including church groups, volunteer organizations, and individuals with disabilities and their families.

Discussion: Generally, this suggestion is consistent with each priority's requirement that the DRRPs involve key stakeholder groups in their research or development activities. However, NIDRR does not believe it should specify that stakeholder involvement must occur at the local level since the involvement of local stakeholders might not be relevant to the proposed research. We expect applicants to involve stakeholders whose contributions will enhance the outcomes of the research investment. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: One commenter suggested NIDRR include a priority area for transition-aged youth in each of the three proposed priorities. The commenter recommended that NIDRR revise this priority area in each priority to specify that transition age begins at 14.

Discussion: NIDRR has purposefully written this and other priority areas broadly so that applicants may specify the details of their proposed research or development projects according to their knowledge and expertise and the specific needs for knowledge that they see in their respective fields. We do not want to limit the number and breadth of applications submitted by defining transition-age too specifically. Applicants who respond under this priority area are free to specify the age range that defines transition-aged youth. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: None.

Discussion: NIDRR has determined that the priority area, ''research, knowledge translation, and capacity building,'' described in paragraph (1)(a)(v) of each of the three priorities does not belong in the list of possible priority areas in which an applicant may propose to conduct research or development activities in our field-initiated competitions. The other priority areas listed in paragraph (1)(a) are examples of substantive topics on which the project may focus its research or development activities. Further, paragraph (1)(c) already requires grantees to conduct knowledge translation activities in order to facilitate use of interventions, programs, technologies or products resulting from research or development activities supported by the project.

Changes: NIDRR has removed paragraph (1)(a)(v) from each of the three priorities and renumbered the paragraph or paragraphs that follow accordingly.

Comment: None.

Discussion: NIDRR is making minor wording adjustments to the introductory text of paragraph (1)(a) of each priority, and to the priority areas that follow the introductory text of paragraph (1)(a). As originally written, each broad topic area repeated the same language about the target audience, namely, ''individuals with disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with disabilities.'' This language was repeated subsequently in each of the priority areas. NIDRR is simplifying the priority by identifying the target population in the overall introduction and eliminating it from each specific priority area.

Changes: NIDRR has amended paragraph (1)(a) and its subordinate paragraph in each of the three priorities, so that it is clear to applicants that they may focus on individuals with disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with disabilities.

Comments on the proposed definitions.

Comment: One commenter recommended that NIDRR modify the definitions of ''intervention development'' and ''intervention efficacy'' to emphasize that interventions may be more or less efficacious depending on the socio-demographic characteristics of the target population.

Discussion: NIDRR agrees with the commenter's rational but believes that the proposed definitions of ''intervention development'' and ''intervention efficacy'' already include these points and thus do not need to be changed. For example, the definitions include the point that ''intervention development'' involves specifying target populations. The definitions also state that ''intervention efficacy'' research may ''identify factors or individual characteristics that affect the relationship between the intervention and outcomes.'' Because these definitions already allow for the type of sub-population analysis and findings that the commenter suggests, we are not making changes to these definitions.

Changes: None.

FINAL PRIORITIES:

DRRPs on Community Living and Participation of Individuals with Disabilities; Health and Function of Individuals with Disabilities; and Employment of Individuals with Disabilities.

Note: Each of these priorities is associated with two CFDA numbers—one for use by applicants who are proposing research activities, and one for use by applicants who are proposing development activities. We describe the appropriate use of these CFDA numbers in the Notice Inviting Applications that is published elsewhere in this issue of the **Federal Register**.

Priority 1—DRRP on Community Living and Participation of Individuals With Disabilities

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for a Disability Rehabilitation Research Project (DRRP) on Community Living and Participation of Individuals with Disabilities. The DRRPs must contribute to the outcome of maximizing the community living and participation outcomes of individuals with disabilities.

(1) To contribute to this outcome, the DRRP must—

(a) Conduct either research activities or development activities, in one or more of the following priority areas, focusing on individuals with disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with disabilities:

(i) Technology to improve community living and participation outcomes for individuals with disabilities.

(ii) Individual and environmental factors associated with improved community living and participation outcomes for individuals with disabilities.

(iii) Interventions that contribute to improved community living and participation outcomes for individuals with disabilities. Interventions include any strategy, practice, program, policy, or tool that, when implemented as intended, contributes to improvements in outcomes for individuals with disabilities.

(iv) Effects of government policies and programs on community living and participation outcomes for individuals with disabilities.

(v) Practices and policies that contribute to improved community living and participation outcomes for transition-aged youth with disabilities;

(b) If conducting research under paragraph (1)(a) of this priority, focus its research on a specific stage of research. If the DRRP is to conduct research that can be categorized under more than one stage, including research that progresses from one stage to another, those stages must be clearly specified. These stages, exploration and discovery, intervention development, intervention efficacy, and scale-up evaluation, are defined in this notice;

(c) Conduct knowledge translation activities (i.e., training, technical assistance, utilization, dissemination) in order to facilitate stakeholder (e.g., individuals with disabilities, employers, policymakers, practitioners) use of the interventions, programs, technologies, or products that resulted from the research or development activities conducted under paragraph (1)(a) of this priority; and

(d) Involve key stakeholder groups in the activities conducted under paragraph (1)(a) of this priority in order to maximize the relevance and usability of the research or development products to be developed under this priority.

Priority 2—Health and Function of Individuals With Disabilities

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for a Disability and Rehabilitation Research Project (DRRP) on Health and Function of Individuals with Disabilities. The DRRPs must contribute to the outcome of maximizing health and function outcomes of individuals with disabilities.

(1) To contribute to this outcome, the DRRP must—

(a) Conduct either research activities or development activities in one or more of the following priority areas, focusing on individuals with disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with disabilities:

(i) Technology to improve health and function outcomes for individuals with disabilities.

(ii) Individual and environmental factors associated with improved access to rehabilitation and healthcare and improved health and function outcomes for individuals with disabilities.

(iii) Interventions that contribute to improved health and function outcomes for individuals with disabilities. Interventions include any strategy, practice, program, policy, or tool that, when implemented as intended, contributes to improvements in outcomes for individuals with disabilities.

(iv) Effects of government policies and programs on health care access and on health and function outcomes for individuals with disabilities.

(v) Practices and policies that contribute to improved health and function outcomes for transition-aged youth with disabilities;

(b) If conducting research under paragraph (1)(a) of this priority, focus its research on a specific stage of research. If the DRRP is to conduct research that can be categorized under more than one stage, including research that progresses from one stage to another, those stages must be clearly specified. These stages, exploration and discovery, intervention development, intervention efficacy, and scale-up evaluation, are defined in this notice;

(c) Conduct knowledge translation activities (i.e., training, technical assistance, utilization, dissemination) in order to facilitate stakeholder (e.g., individuals with disabilities, employers, policymakers, practitioners) use of the interventions, programs, technologies, or products that resulted from the research or development activities conducted under paragraph (1)(a) of this priority; and

(d) Involve key stakeholder groups in the activities conducted under paragraph (1)(a) of this priority in order to maximize the relevance and usability of the research or development products to be developed under this priority.

Priority 3—DRRP on Employment of Individuals With Disabilities

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for a Disability and Rehabilitation Research Project (DRRP) on Employment of Individuals with Disabilities. The DRRPs must contribute to the outcome of maximizing employment outcomes of individuals with disabilities.

(1) To contribute to this outcome, the DRRP must—

(a) Conduct either research activities or development activities, in one or more of the following priority areas, focusing on individuals with disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with disabilities:

(i) Technology to improve employment outcomes for individuals with disabilities.

(ii) Individual and environmental factors associated with improved employment outcomes for individuals with disabilities.

(iii) Interventions that contribute to improved employment outcomes for individuals with disabilities. Interventions include any strategy, practice, program, policy, or tool that, when implemented as intended, contributes to improvements in outcomes for individuals with disabilities.

(iv) Effects of government policies and programs on employment outcomes for individuals with disabilities.

(v) Practices and policies that contribute to improved employment outcomes for transition-aged youth with disabilities.

(vi) Vocational rehabilitation (VR) practices that contribute to improved employment outcomes for individuals with disabilities;

(b) If conducting research under paragraph(1)(a) of this priority, focus its research on a specific stage of research. If the DRRP is to conduct research that can be categorized under more than one stage, including research that progresses from one stage to another, those stages must be clearly specified. These stages, exploration and discovery, intervention development, intervention efficacy, and scale-up evaluation, are defined in this notice;

(c) Conduct knowledge translation activities (i.e., training, technical assistance, utilization, dissemination) in order to facilitate stakeholder (e.g., individuals with disabilities, employers, policymakers, practitioners) use of the interventions, programs, technologies, or products that resulted from the research activities, development activities, or both, conducted under paragraph (1)(a) of this priority; and

(d) Involve key stakeholder groups in the activities conducted under paragraphs (1)(a) of this priority in order to maximize the relevance and usability of the research or development products to be developed under this priority.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

FINAL DEFINITIONS:

The Assistant Secretary for Special Education and Rehabilitative Services establishes the following definitions for this program. We may apply one or more of these definition in any year in which this program is in effect.

Exploration and discovery means the stage of research that generates hypotheses or theories by conducting new and refined analyses of data, producing observational findings, and creating other sources of research-based information. This research stage may include identifying or describing the barriers to and facilitators of improved outcomes of individuals with disabilities, as well as identifying or describing existing practices, programs, or policies that are associated with important aspects of the lives of individuals with disabilities. Results achieved under this stage of research may inform the development of interventions or lead to evaluations of interventions or policies. The results of the exploration and discovery stage of research may also be used to inform decisions or priorities.

Intervention development means the stage of research that focuses on generating and testing interventions that have the potential to improve outcomes for individuals with disabilities. Intervention development involves determining the active components of possible interventions, developing measures that would be required to illustrate outcomes, specifying target populations, conducting field tests, and assessing the feasibility of conducting a well-designed interventions study. Results from this stage of research may be used to inform the design of a study to test the efficacy of an intervention.

Intervention efficacy means the stage of research during which a project

evaluates and tests whether an intervention is feasible, practical, and has the potential to yield positive outcomes for individuals with disabilities. Efficacy research may assess the strength of the relationships between an intervention and outcomes, and may identify factors or individual characteristics that affect the relationship between the intervention and outcomes. Efficacy research can inform decisions about whether there is sufficient evidence to support ''scaling-up'' an intervention to other sites and contexts. This stage of research can include assessing the training needed for wide-scale implementation of the intervention, and approaches to evaluation of the intervention in real world applications.

Scale-up evaluation means the stage of research during which a project analyzes whether an intervention is effective in producing improved outcomes for individuals with disabilities when implemented in a real-world setting. During this stage of research, a project tests the outcomes of an evidence-based intervention in different settings. It examines the challenges to successful replication of the intervention, and the circumstances and activities that contribute to successful adoption of the intervention in real-world settings. This stage of research may also include well-designed studies of an intervention that has been widely adopted in practice, but that lacks a sufficient evidence-base to demonstrate its effectiveness.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

NOTE: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities and definitions, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Summary of potential costs and benefits:

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years in that similar projects have been completed successfully. These final priorities and definitions will generate new knowledge through research and development.

Another benefit of these final priorities is that establishing new DRRPs will improve the lives of individuals with disabilities. The new DRRPs will provide support and assistance for NIDRR grantees as they generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to perform regular activities of their choice in the community.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must

have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 2, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and duties of Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–10829 Filed 5–6–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

Federal Acquisition Regulation; Government Property

CFR Correction

In Title 48 of the Code of Federal Regulations, Chapter 1 (Parts 52 to 99), revised as of October 1, 2012, on page 411, in section 52.249–2, paragraph (i) of the clause is reinstated to read as follows:

52.249–2 Termination for Convenience of the Government (Fixed-Price).

* * * * *

(i) The cost principles and procedures of part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

* * * * *

[FR Doc. 2013–10955 Filed 5–6–13; 8:45 am]

BILLING CODE 1501–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120905422–3394–01]

RIN 0648–BC50

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Exempted Fishery for the Spiny Dogfish Fishery in the Waters East and West of Cape Cod, MA

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

ACTION: Interim final rule.

SUMMARY: This interim final rule modifies the regulations implementing the Northeast (NE) Multispecies Fishery Management Plan (FMP) to allow vessels fishing with a NE Federal spiny dogfish permit to fish in an area east of Cape Cod, MA (Eastern Exemption Area) with gillnet and longline gear, from June through December and with handgear from June through August, and to fish in Cape Cod Bay (Western Exemption Area) with longline gear and handgear from June through August. This action allows vessels to harvest spiny dogfish in a manner that is consistent with the bycatch reduction objectives of the NE Multispecies FMP.

DATES: Effective June 1, 2013. Comments on the Western Exemption Area must be received no later than 5 p.m., eastern daylight time, on June 6, 2013.

ADDRESSES: An environmental assessment (EA) was prepared for this action and other considered alternatives and provides an analysis of the impacts of the approved measures and alternatives. Copies of this action, including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from John K. Bullard, Regional Administrator, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also available online at *http://www.nero.noaa.gov.*

You may submit comments, identified by NOAA–NMFS–2012–0195, by any one of the following methods:

- Written comments (paper, disk, or CD–ROM) should be sent to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Mark the outside of the envelope, ''Comments on Spiny Dogfish Exempted Fishery.''
- Comments also may be sent via facsimile (fax) to (978) 465–3116.
- Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulationss.gov/#!docketDetail;D=NOAA-NMFS-2012-0195,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments will be posted for public viewing as they are received. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978–281–9233; fax 978–281–9135; email: *travis.ford@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Current regulations, implemented under Framework Adjustment 9 (60 FR 19364, April 18, 1995) and expanded under Amendment 7 to the FMP (61 FR 27710, May 31, 1996), contain a NE multispecies fishing mortality and bycatch reduction measure that is applied to the Gulf of Maine (GOM), Georges Bank (GB), and Southern New England Exemption Areas found in § 648.80. A vessel may not fish in these areas unless it is fishing under a NE multispecies or a scallop days-at-sea (DAS) allocation; is fishing with exempted gear; is fishing under the Small Vessel, Handgear (A or B) or Party/Charter permit restrictions; or is fishing in an exempted fishery. The procedure for adding, modifying, or deleting fisheries from the list of exempted fisheries is found in § 648.80. A fishery may be exempted by the Regional Administrator (RA) if, after consultation with the New England Fishery Management Council (Council), the RA determines, based on sufficient available data or information, that the bycatch of regulated species (the subset of NE multispecies that requires vessels to use regulated mesh) is, or can be reduced to, less than 5 percent by weight of the total catch, and that such

exemption will not jeopardize the fishing mortality objectives of the FMP. We apply the 5-percent NE multispecies threshold at the trip level. Therefore, the percentages calculated were based on the percent of multispecies a vessel caught on a given trip.

Representatives from the NE multispecies sector fleet submitted two exempted fishery requests to the NMFS Northeast Regional Office in December of 2011, requesting that we consider an exempted fishery for gillnet, longline, and handgear vessels targeting spiny dogfish in portions of the GOM and GB. Sector vessels targeting spiny dogfish in the requested area are currently required to fish on a declared NE multispecies trip and are charged a discard rate that is determined by the Northeast Fisheries Observer Program (NEFOP) and at-sea monitoring (ASM) discard data. The discard rate is based on the sector, area fished, and gear type, and is referred to as a discard stratum. Because discard strata are not defined based on target species, vessels targeting spiny dogfish (and catching very little groundfish) are being charged the discard rate that is used for all other declared groundfish trips in the discard stratum that applies to the sector, area fished, and gear type. This leads to calculations of higher discard rates of groundfish than observed on trips targeting spiny dogfish. We are required to deduct these calculated discards from the sector's Annual Catch Entitlement (ACE). Forfeiting the value of these often uncaught calculated discards, which otherwise could have been landed for sale, has created an economic burden for sector fishermen. It has particularly affected the sector's ''choke stocks,'' i.e., fish for which the sector has a small amount of ACE, either because of a low catch history for that stock or a small annual catch limit (ACL) for the stock.

The original requests from industry proposed a year-round exempted fishery in statistical areas 514, 515, and 521 for vessels using gillnet, longline, and handgear. Due to too few observed trips in large portions of these areas and elevated groundfish bycatch recorded for the trips we do have information for, this action modifies the requested exempted fishery by exempting vessels using certain gear from the NE multispecies regulations in two smaller areas in the waters east and west of Cape Cod, MA, for limited times during the year, depending on the gear type used. One area is east of Cape Cod, which will be referred to as the Eastern Cape Cod Spiny Dogfish Exemption Area. The other area is south of 42°11.5′ N. lat. and west of 70° W. long. which will be will be referred to as the Western Cape Cod Spiny Dogfish Exemption Area.

In the Eastern Exemption Area (east of Cape Cod), this action exempts vessels using gillnet and longline gear from June through December, and vessels using handgear from June through August. The Eastern Exemption Area and the months of the exemption were developed based on information showing that, of a total of 642 observed trips in fishing years (FY) 2010 and 2011, the average percentage of groundfish caught was 0.09 percent for this modified alternative. Of these observed trips, none caught more than 5 percent regulated groundfish. We assessed another option for the Eastern Exemption Area that would have exempted gillnet, longline, and handgear in the area year-round. The data support the first option analyzed (referred to in the EA as Alternative 1, Option 1) but revealed that bycatch of regulated species (primarily cod and pollock) was elevated in the second option, with insufficient observer data in the area for January through May to make conclusions about bycatch.

Based on data available at the time of the proposed rule, the Eastern Exemption Area (Alternative 1) was included as the preferred alternative. During the public comment period, we received a comment requesting that we expand the exemption area by including the portion of Cape Cod Bay south of 42° N. lat. This area was part of the original request by industry, but it was our initial determination that there were not enough data to exempt this area from the requirements of the NE multispecies regulations. In response to this comment, we made an additional data request to the Massachusetts Department of Marine Fisheries (MA DMF). MA DMF was able to provide data for some supplementary trips in the area from a historical dataset (1995–2002). The MA DMF data included sufficient information for us to expand the proposed exemption area to include the portion of Cape Cod Bay west of 70° W. long. and south of 42°11.5′ N. lat. (Western Exemption Area), as originally requested by industry. The data included a total of 11 trips that spanned the area from June through August for longline gear and handgear. None of these 11 trips exceeded the 5-percent regulated multispecies threshold. Based on this information, we created the Western Exemption Area as an additional alternative (Alternative 2) within Cape Cod Bay to target spiny dogfish with longline gear and handgear from June through August. Although this area was part of the original request by industry, it was not part of the proposed rule for this action. Therefore, we are accepting comment on this portion of the rule to give the public a chance to comment on the Western Exemption Area (see ''**DATES**'').

Although this action will exempt vessels targeting spiny dogfish from the NE multispecies regulations, this action is not expected to jeopardize mortality objectives of spiny dogfish or groundfish stocks. The existing spiny dogfish fishery is limited by an annual quota and a 4,000-lb (1,814-kg) trip limit. Furthermore, using more accurate groundfish discard rates for spiny dogfish targeted trips will ease some of the burden on vessels participating in the NE multispecies fishery by providing an opportunity to actually land fish that were formerly calculated discards.

The Council was consulted regarding the proposed rule at its September 25, 2012, Council meeting. Some members of the Council were in favor of expanding the exemption over a larger area and for a longer time period, and our addition of the Western Exemption Area supports this expansion. The Council as a whole raised no objections to this exemption.

Approved Measures

Eastern and Western Cape Cod Spiny Dogfish Exemption Areas

The RA has determined that an exempted spiny dogfish fishery in two specifically defined portion of the waters east and west of Cape Cod, MA, meets the exemption requirements in § 648.80(a)(8)(i). Analysis of available data indicate that bycatch of regulated species by vessels using gillnet and longline gear from June through December, and handgear from June through August in the Eastern Exemption Area, and vessels using longline gear and handgear from June through August in the Western Exemption Area, is less than 5 percent, by weight, of the total catch. The RA has also determined that the exemption will not jeopardize the fishing mortality objectives of the FMP because vessels will still be limited by the spiny dogfish annual quota and trip limit.

The industry request that we expand the exemption area into Cape Cod Bay asked for gillnet gear to be exempted in addition to longline gear and handgear. However, including gillnets in the exemption during July and August is unnecessary and would be duplicative because there is an existing exemption for vessels using large-mesh gillnets in a portion of Statistical Area 514 (including Cape Cod Bay) for the months of July and August. For the

month of June we are concerned that interactions with large whales could increase by exempting gillnet gear in Cape Cod Bay. Therefore, the RA has determined that gillnet gear should not be included in the Western Exemption Area.

The Eastern Cape Cod Spiny Dogfish Exemption Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the RA upon request):

Point	N. latitude	W. longitude
Point_1	42°00′	70°00′
Point_2	42°00′	69°47.5′
Point_3	41°40′	69°47.5′
Point_4	41°29.5′	69°35.5′
Point_5	41°29.5′	69°23′
Point_6	41°26′	69°20′
Point_7	41°20′	69°20′
Point_8	41°20′	(1)
Point_9	(2)	70°00′
Point_10	(3)	70°00′
Point_11	(4)	70°00′
Point_1	42°00′	70°00′

1 The eastern coastline of Nantucket, MA, at 41°20′ N. lat.
2 The northern coastline of Nantucket, MA, at 70°00′ W. long.
3 The southern coastline of Cape Cod, MA, at 70°00′ W. long., then along the eastern coastline of Cape Cod, MA, to Point_11.
4 The northern coastline of Cape Cod, MA, at 70°00′ W. long.

The Western Cape Cod Spiny Dogfish Exemption Area is bounded on the north by 42°11.5′ N. lat., bounded on the east by 70°00′ W. long., and bounded on the south and west by the coast of Massachusetts.

Comments and Responses

Comment 1: The Cape Cod Commercial Hook Fishermen's Association (CCCHFA) commented that we should adopt the year-round option for the Eastern Exemption Area, as included in the original request by the industry, because of the additional fishing opportunity it would provide to fishermen and because it would eliminate confusion.

Response 1: Available information does not support keeping the exempted fishery in the Eastern Exemption Area open year-round for gillnet, longline, and handgear, as proposed in Alternative 1, Option 2. As shown in the EA, there were several handgear trips in the months of September through December that exceeded the 5-percent threshold requirement for an exempted fishery. In addition, for many of the requested months there were no observed trips in the area for any of the gear types. Due to insufficient catch composition data for these months, and the increased number of trips exceeding 5 percent groundfish, Alternative 1, Option 2 was rejected and Alternative 1, Option 1 is the preferred option.

We are confident that the industry can use this exemption successfully. We have many existing exempted fisheries that successfully operate for certain months of the year. We will provide a permit holder letter to all spiny dogfish and NE multispecies permit holders regarding this exemption and a clear description will be included in our large-mesh exemption information sheet to minimize confusion.

Comment 2: CCCHFA asked that we modify the proposed exemption area to include the portion of Statistical Area 514 located beneath the 42° N. lat. line, i.e., Cape Cod Bay, as included in the original request by the industry.

Response 2: The area sought by the CCCHFA was initially not included in the proposed rule due to a lack of sufficient information. As stated in the preamble of this rule, in response to public comment on the proposed rule, we made an additional data request to MA DMF. Based on the data that MA DMF provided, we created a Western Exemption Area (Alternative 2 in the EA) to target spiny dogfish in this portion of Cape Cod Bay as sought in this comment. The Western Exemption Area is included in this interim final rule for longline gear and handgear from June through August.

The Western Exemption Area in this interim final rule does not include gillnets, however. This exemption is unnecessary for July and August because a current exempted fishery for vessels using gillnets already exists in this area from July through August. Although information showed that gillnet gear caught less than 5 percent regulated species, we are concerned about potential increased interactions with large whales in June. Therefore, gillnet gear was not included in the Western Exemption Area in this rule.

Comment 3: X Northeast Fishery Sector, Inc (NEFS X) commented that we did not consider NEFS X's request for an exempted fishery for gillnets, specifically an exemption for large-mesh gillnets in statistical areas 521, 514, and 515 from May 1 to December 15 of each year.

Response 3: We disagree. In our analysis for this exemption we compiled NEFOP and ASM observer data of declared groundfish trips using gillnet, longline, and handgear in Statistical Areas 521, 514, and 515, as stated in the EA. Each of these gears was looked at separately in each Statistical Area. The 5-percent regulated multispecies bycatch threshold was exceeded in all months in all of the Statistical Areas where the exemption was requested, and therefore, could not be approved. The exempted fishery areas approved by this rule were selected based on sufficient information showing that the fishing activity met the bycatch requirements of an exempted fishery, and the exemption would not jeopardize fishing mortality objectives.

Comment 4: NEFS X also commented that their fishermen have demonstrated that the bycatch of regulated species is, or can be, reduced to less than 5 percent by weight of the total catch, and that such an exemption will not jeopardize the fishing mortality objectives of the FMP.

Response 4: The 5-percent NE multispecies threshold applies to the trip level, i.e, the percentage of multispecies caught on a given trip. As shown in the EA for this action, although many trips in the requested area caught below the 5-percent threshold, many trips also exceeded it. In addition, the data we use to make our determination differ from those analyzed by NEFS X. NEFS X analyzed the landing weights of all of their

sector's trips from FY 2010 and 2011 that were targeting dogfish using large-mesh gillnets, and took the overall average percentage of groundfish caught on these trips. In addition, NEFS X's data showed that the overall percentage of regulated species of these landings exceeded the 5-percent regulated species threshold (6.3 percent in FY 2010 and 5.1 percent in FY 2011). We analyzed all NEFOP and ASM trips from FY 2010 and 2011 for the Statistical Areas, gears, and months requested (target species was not taken into consideration). We analyzed each gear type and month individually and we found multiple trips that exceeded the 5-percent threshold in each area in each month requested. In order to avoid trips that exceeded the 5-percent threshold requirement, we revised the areas to meet the threshold requirements.

Comment 5: NEFS X commented that its members demonstrated in September of 2012 that a directed dogfish fishery could exist in the near-shore waters in Statistical Area 514 for gillnet gear.

Response 5: There is an existing gillnet exemption for spiny dogfish in a portion of Statistical Area 514 from July through August that provides the same opportunity to fish during those 2 months as sought in the Western Exemption Area with large-mesh gillnet gear. While, we did look at gillnet data in Statistical Area 514 year round initially, there were no areas or time periods with data where trips did not exceed the 5-percent multispecies threshold. In addition, we have concerns about increased interactions with large whales with gillnet gear in Cape Cod Bay in June. Therefore, gillnet gear was not included in the Western Exemption Area.

Changes From the Proposed Rule

As stated above, based on public comment, we created an additional alternative (Alternative 2) to create the Western Exemption Area to target spiny dogfish in Cape Cod Bay for longline gear and handgear from June through August. Although this area was part of the original request by industry, it was not part of the original proposed rule for this action. Therefore, we are accepting comment on this rule to give the public a chance to voice their support or concerns with the Western Exemption Area. The regulations were revised from the proposed rule to reflect the addition of the Western Exemption Area by adding § 648.50 (a)(19)(ii).

Classification

NMFS has determined that this interim final rule is consistent with the FMP and the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to not be significant for purposes of Executive Order 12866.

Section 553 of the Administrative Procedure Act establishes procedural requirements applicable to informal rulemaking by Federal agencies. The purpose of these requirements is to ensure public access to the Federal rulemaking process and to give the public adequate notice and opportunity for comment. There is good cause under 5 U.S.C. 553(d)(3) and 553(b)(3)(B) to waive the 30-day delay in the rule's effective date and prior notice and the opportunity for public comment on the Western Exemption Area, respectively, because such delays could prevent sector members from realizing the full potential savings in discards, which would be contrary to the public interest. Currently, sector members have an elevated calculated groundfish discard rate applied to trips targeting spiny dogfish fished under a declared NE multispecies trip. In FY 2010 and 2011, the value of the elevated discards applied to spiny dogfish trips was $48,458.80 in the Eastern Exemption Area. There is an additional cost of lost revenues from spiny dogfish because these elevated discard rates discourage vessels from taking trips that target spiny dogfish. Because of the lack of current data in the Western Exemption Area, a cost of elevated discard rates to sectors in this area is expected, but the amount is unknown. Delaying the effective date of this rule could delay or prevent the full amount of cost savings.

Further, prior notice and comment is contrary to the public interest because the Western Exemption Area is open only seasonally from June 1 through August 31. NMFS solicited new data in response to a comment received during the comment period, which required additional analysis to determine whether the Western Exemption Area met the requirements for an exempted fishery. The time required for this analysis was not due to actions by the NMFS, and because vessels in the Western Exemption Area are only exempt from June through August of each year, the time required for prior notice and comment would prevent vessels from gaining full access to this area in 2013, thereby undermining the rule's utility. Providing vessels access to the Western Exemption Area on June 1 will allow vessels to realize the full economic benefits of the exemption, which are discussed below in the economic impacts section. The immediate benefits of the interim measures, implemented by this rule, the mitigation of substantial negative economic impacts to fishery participants, associated businesses, and coastal communities that depend on spiny dogfish revenues, outweigh the opportunity of advance notice and public comment. Therefore, delaying the implementation of the Western Exemption Area to allow for prior notice and public comment would be contrary to the public interest.

In addition to the cost savings benefit in applying more accurate discard rates to groundfish and spiny dogfish trips, a waiver of the 30-day delay in effectiveness is justified under 5 U.S.C. 553(d)(1) because this rule grants an exemption by eliminating the requirement that vessels declare a NE multispecies trip while targeting spiny dogfish in the waters east and west of Cape Cod, MA. This creates more flexibility for the spiny dogfish fleet by relieving them from the restriction of the NE multispecies regulations, decreases the incentive to catch NE multispecies on a trip targeting spiny dogfish, and allows sector members to land their sector's ACE as opposed to losing it as discards.

Pursuant to 5 U.S.C. 603, a Final Regulatory Flexibility Analysis (FRFA) has been prepared, which describes the economic impacts that this rule will have on small entities. The FRFA incorporates the economic impacts and analysis summarized in the Initial Regulatory Flexibility Analysis (IRFA) for the proposed rule for this action, and the corresponding economic analyses prepared for this action in the EA and the Regulatory Impact Review (RIR). The contents of these documents are not repeated in detail here. Copies of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**). A description of the reasons for this action, the objectives of the action, and the legal basis for this interim final rule are found in the preamble to the proposed and final rules.

There are no Federal rules that duplicate, overlap, or conflict with this rule. This action does not include any new reporting, recordkeeping, or other compliance requirements. NMFS did not receive any public comments that addressed the IRFA. This rule creates a new spiny dogfish exemption area for gillnet, longline, and handgear vessels targeting spiny dogfish in the waters east and west of Cape Cod, MA. The alternatives in this action were compared to different options for the exemption, including no action. The alternative options to the selected exemption include exempting a larger area for a longer period of time, year-round, and No Action options, which

would continue to require vessels targeting spiny dogfish in these areas to be on a declared NE multispecies trip.

Description and Estimate of the Number of Small Entities to Which This Interim Final Rule Will Apply

This action will impact vessels that hold Federal open access commercial spiny dogfish permits, and participate in the spiny dogfish fishery. According to the Mid-Atlantic Fishery Management Council's analysis, 2,743 vessels were issued spiny dogfish permits in 2011. However, only 326 vessels landed any amount of spiny dogfish. While the fishery extends from Maine to North Carolina, most active vessels were from Massachusetts (31.6 percent), New Jersey (14.7 percent), New Hampshire (11.4 percent), Rhode Island (9.8 percent), New York (8.0 percent), North Carolina (6.7 percent), and Virginia (5.8 percent). All of the potentially affected businesses are considered small entities under the standards described in NOAA Fisheries guidelines because they have gross receipts that do not exceed $4 million annually.

Economic Impacts of This Action

Compared to the No Action alternative, the Preferred Alternatives (Alternative 1 Option 1, and Alternative 2 Option1) are expected to benefit the local fishing communities that have historically depended on the spiny dogfish fishery off Cape Cod, MA. This exemption was requested by members of the NE multispecies fishing industry, specifically sector members. The cost of fishing for spiny dogfish has become increasingly high primarily due to the deduction of calculated discards from each vessel's sector ACE when fishing on a sector trip. Because these discards are deducted from each vessel's sector ACE, they represent a lost opportunity for fishing because they can no longer be landed for sale. Thus, this action will allow vessels to fish under this exemption outside of the groundfish regulations, and therefore prevent discards from being deducted from a sector's ACE at a higher rate than is actually occurring. The EA for this action estimates that the exemption could save vessels fishing in the Eastern Exemption Area approximately $24,000 a year in uncaught calculated discards alone. The addition of the Western Exemption Area would add to this savings.

With the elimination of these low groundfish discard trips from the sector's discard stratum, the overall discard rate for the sector will likely increase because the spiny dogfish targeted trips that were observed were keeping the discard rate for trips targeting groundfish artificially low. Any increase in the discard rate will not represent a significant cost to the sector vessels that are not participating in the exemption. In addition, the calculated discard rates for both groundfish vessels and spiny dogfish vessels will be more accurate as a result of the exemption; more accurate discards are not expected to have an economic effect on the fishing community as a whole. Further, participation in this exemption is voluntary. A vessel may still choose to target spiny dogfish during the exemption period while on a declared groundfish trip should it be to their benefit.

Economic Impacts of Alternatives to the Proposed Action

The impacts of Alternative 1 Option 2, which extends the Eastern Exemption Area for the entire year, would be expected to be similar to the impacts of the Preferred Alternative, but the expanded time would allow more vessels a greater opportunity to participate in the exempted fishery. The EA for this action estimates that Alternative 1 Option 2 would save the industry an additional $877.93 in uncaught discards compared to Alternative 1 Option 1. However, the data indicate that Option 2 would likely result in a higher percentage of groundfish catch because several handgear trips caught greater than 5 percent regulated multispecies from September through December. In addition, the RA could not make a determination as to whether regulated groundfish bycatch was < 5 percent during January through May, because there are insufficient observer data available from the area during this time for all of the gear types. Providing an exemption for trips that caught over 5 percent regulated groundfish, or in areas where no data are available, would be contrary to the purpose and requirements of the Magnuson-Stevens Fishery Conservation and Management Act and the NE multispecies regulations. Therefore, this alternative was not selected.

The No Action Options would have a negative economic impact on spiny dogfish vessels relative to the preferred options. Under the No Action Options, sector fishermen targeting spiny dogfish would continue fishing on declared groundfish trips only to be charged a higher than observed groundfish discard rate for their trip targeting spiny dogfish. The spiny dogfish fishery is a valuable resource. The groundfish discards that are attributed to these trips come directly out of the vessel's sector's ACE, which takes away the opportunity to catch these groundfish in the future. Thus, sectors requested an exemption because of the economic burden that the cost of NE regulated multispecies discards applied to these trips had on sector fishermen targeting other stocks (i.e., spiny dogfish). As described above, it is estimated that this action could save vessels fishing in the Eastern Exemption Area approximately $24,000 a year in discards alone, compared to the No Action Options.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule. As part of this rulemaking process, a small entity compliance guide was prepared. The guide will be sent to all holders of permits issued for the spiny dogfish and NE multispecies fisheries. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from the Regional Administrator (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 2, 2013.

Alan D. Risenhoover,

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

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, paragraph (k)(5)(i) is revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(5) * * *

(i) Violate any of the provisions of § 648.80, including paragraphs (a)(5), the Small-mesh Northern Shrimp Fishery Exemption Area; (a)(6), the

Cultivator Shoal Whiting Fishery Exemption Area; (a)(9), Small-mesh Area 1/Small-mesh Area 2; (a)(10), the Nantucket Shoals Dogfish Fishery Exemption Area; (a)(11), the GOM Scallop Dredge Exemption Area; (a)(12), the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area; (a)(13), the GOM/GB Monkfish Gillnet Exemption Area; (a)(14), the GOM/GB Dogfish Gillnet Exemption Area; (a)(15), the Raised Footrope Trawl Exempted Whiting Fishery; (a)(16), the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery; (a)(18), the Great South Channel Scallop Dredge Exemption Area; (a)(19), the Eastern and Western Cape Cod Spiny Dogfish Exemption Areas; (b)(3), exemptions (small mesh); (b)(5), the SNE Monkfish and Skate Trawl Exemption Area; (b)(6), the SNE Monkfish and Skate Gillnet Exemption Area; (b)(8), the SNE Mussel and Sea Urchin Dredge Exemption Area; (b)(9), the SNE Little Tunny Gillnet Exemption Area; (b)(11), the SNE Scallop Dredge Exemption Area; or (b)(12), the SNE Skate Bait Trawl Exemption Area. Each violation of any provision in § 648.80 constitutes a separate violation.

* * * * *

■ 3. In § 648.80, paragraph (a)(3)(vi) is revised, and paragraph (a)(19) is added to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(3) * * *

(vi) *Other restrictions and exemptions.* A vessel is prohibited from fishing in the GOM or GB Exemption Area as defined in paragraph (a)(17) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (a)(5) through (7), (a)(9) through (a)(16) and (a)(18) through (a)(19), (d), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing on a sector trip; or if fishing under the Small Vessel or Handgear A permit specified in § 648.82(b)(5) and (6), respectively; or if fishing under a Handgear B permit specified in § 648.88(a); or if fishing under the scallop state waters exemptions specified in § 648.54 and paragraph (a)(11) of this section; or if fishing under a scallop DAS in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit specified in § 648.88; or if fishing as a charter/party or private recreational vessel in compliance with § 648.89. Any gear used by a vessel in this area must be authorized under one of these exemptions. Any gear on a vessel that is not authorized under one of these exemptions must be stowed as specified in § 648.23(b).

* * * * *

(19) *Cape Cod Spiny Dogfish Exemption Areas.* Vessels issued a NE multispecies limited access permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, may fish in the Eastern or Western Cape Cod Spiny Dogfish Exemption Area as defined under paragraph (a)(19)(i) through (a)(19)(ii) of this section, when not under a NE multispecies or scallop DAS, provided the vessel complies with the requirements for the Eastern or Western area, specified in paragraph (a)(19)(i) and (a)(19)(ii) of this section, respectively.

(i) *Eastern area definition.* The Eastern Cape Cod Spiny Dogfish Exemption Area is defined by the straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request): Eastern Cape Cod Spiny Dogfish Exemption Area [June 1 through December 31, unless otherwise specified in paragraph (a)(19)(i)(A) of this section]

Point	N. latitude	W. longitude
CCD 1	42/00′	70/00′
CCD 2	42/00′	69/47.5′
CCD 3	41/40′	69/47.5′
CCD 4	41/29.5′	69/35.5′
CCD 5	41/29.5′	69/23′
CCD 6	41/26′	69/20′
CCD 7	41/20′	69/20′
CCD 8	41/20′	(1)
CCD 9	(2)	70/00′
CCD 10	(3)	70/00′
CCD 11	(4)	70/00′
CCD 1	42/00′	70/00′

1 The eastern coastline of Nantucket, MA at 41°20′ N. lat.

2 The northern coastline of Nantucket, MA at 70°00′ W. long.

3 The southern coastline of Cape Cod, MA at 70°00′ W. long., then along the eastern coastline of Cape Cod, MA to Point_11

4 The northern coastline of Cape Cod, MA, at 70°00′ W. long.

(A) *Requirements.* (*1*) A vessel fishing in the Eastern Cape Cod Spiny Dogfish Exemption Area specified in this paragraph (a)(19) may not fish for, possess on board, or land any NE regulated species in accordance with the requirements of paragraph (a)(19) of this section.

(*2*) Vessels may use gillnet gear, as specified in § 648.80(a)(4)(iv), or longline gear as specified in § 648.80(a)(4)(v), from June 1 through December 31.

(*3*) Vessels may use handgear from June 1 through August 31.

(B) [Reserved]

(ii) *Western area definition.* The Western Cape Cod Spiny Dogfish Exemption Area is bounded on the north by 42°11.5′ N. lat., bounded on the east by 70°00 W. long., and bounded on the south and west by the coast of Massachusetts (copies of a chart depicting the area are available from the Regional Administrator upon request).

(A) *Requirements.* (*1*) A vessel fishing in the Western Cape Cod Spiny Dogfish Exemption Area specified in this paragraph (a)(19) may not fish for, possess on board, or land any NE regulated species in accordance with the requirements of paragraph (a)(19) of this section.

(*2*) Vessels may use longline gear as specified in § 648.80(a)(4)(v), and handgear from June 1 through August 31.

(B) [Reserved]

* * * * *

[FR Doc. 2013–10803 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130104009–3416–02]

RIN 0648–XC432

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2013 and 2014 Atlantic Bluefish Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues final specifications for the 2013 and 2014 Atlantic bluefish fishery, including annual catch limits, total allowable landings, commercial quotas and recreational harvest limits, and a recreational possession limit. This action establishes the allowable 2013 and 2014 harvest levels and other management measures to achieve the target fishing mortality rate, consistent with the Atlantic Bluefish Fishery Management Plan and the recommendations of the Mid-Atlantic Fishery Management Council.

DATES: The final specifications for the 2013 and 2014 Atlantic bluefish fishery

are effective June 6, 2013, through December 31, 2014.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The specifications document is also accessible via the Internet at: *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, (978) 281–9224.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic bluefish fishery is managed cooperatively by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission). The management unit for bluefish specified in the Atlantic Bluefish Fishery Management Plan (FMP) is U.S. waters of the western Atlantic Ocean. Regulations implementing the FMP appear at 50 CFR part 648, subparts A and J. The regulations requiring annual specifications are found at § 648.162.

The FMP requires the Council to recommend, on an annual basis, an annual catch limit (ACL), annual catch target (ACT), and total allowable landings (TAL) that will control fishing mortality (F). The Council may also recommend a research set-aside (RSA) quota, which is deducted from the bluefish TALs (after any applicable transfer) in an amount proportional to the percentage of the overall TAL as allocated to the commercial and recreational sectors.

Pursuant to § 648.162, the annual review process for bluefish requires that the Council's Bluefish Monitoring Committee and Scientific and Statistical Committee (SSC) review and make recommendations based on the best available data. Based on the recommendations of the Monitoring Committee and SSC, the Council makes a recommendation to the NMFS Northeast Regional Administrator. Because this FMP is a joint plan, the Commission also meets during the annual specification process to adopt complementary measures.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to assure that they achieve the FMP objectives, and may modify them if they do not. NMFS then publishes proposed specifications based on the recommendations in the **Federal Register**, and after considering public comment, NMFS publishes final specifications in the **Federal Register**. A proposed rule for this action published in the **Federal Register** on February 20, 2013 (78 FR 11809), and comments were accepted through March 7, 2013.

Final 2013 Specifications

A description of the process used to estimate bluefish stock status and fishing mortality, as well as the process for deriving the ACL and associated quotas and harvest limits, is provided in the proposed rule and in the bluefish regulations at §§ 648.160 through 648.162. The stock is not overfished or experiencing overfishing, and the catch limits described below reflect the best available scientific information on bluefish. The final 2013 bluefish ABC, ACL, and ACT are specified at 27.472 million lb (12,461 mt).

The ACT is initially allocated between the recreational fishery (83 percent = 22.801 million lb, 10,342 mt) and the commercial fishery (17 percent = 4.670 million lb, 2,118 mt). After deducting an estimate of recreational discards (commercial discards are considered negligible), the recreational TAL would be 19.190 million lb (8,704 mt) and the commercial TAL would be 4.670 million lb (2,118 mt).

However, the FMP specifies that, if 17 percent of the ACT is less than 10.5 million lb, and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.5 million lb as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed the ACT. The recreational harvest limit (RHL) would then be adjusted downward so that the ACT would be unchanged. Based on updated data, the recreational fishery landed 11,184,173 lb (5,073 mt) of bluefish in 2012. Assuming recreational landings in 2013 are consistent with those from 2012, the Council's proposed transfer of 4.686 million lb (2,126 mt) from the recreational sector to the commercial sector can be approved. This transfer results in an adjusted commercial quota of 9.357 million lb (4,244 mt), and an adjusted RHL of 14.504 million lb (6,579 mt).

Final 2013 RSA, Commercial Quota, and RHL

Two projects that will utilize bluefish RSA were approved by NOAA's Grants Management Division. A total RSA quota of 715,819 lb (325 mt) was approved for use by these projects during 2013. Proportional adjustments of this amount to the commercial and recreational allocations result in a final commercial quota of 9.076 million lb (4,117 mt) and a final RHL of 14.069 million lb (6,382 mt).

Final 2014 Specifications

The final 2014 bluefish ABC, ACL, and ACT are specified at 27.057 million lb (12,273 mt). The ACT is initially allocated between the recreational fishery (83 percent = 22.458 million lb, 10,187 mt) and the commercial fishery (17 percent = 4.600 million lb, 2,087 mt). After deducting an estimate of recreational discards (commercial discards are considered negligible), the recreational TAL would be 18.846 million lb (8,548 mt) and the commercial TAL would be 4.600 million lb (2,087 mt).

Assuming recreational landings in 2014 are consistent with those from 2012, the Council's proposed transfer of 4.342 million lb (1,969 mt) from the recreational sector to the commercial sector can be approved. This transfer results in an adjusted commercial quota of 8.942 million lb (4,056 mt), and an adjusted RHL of 14.504 million lb (6,579 mt).

Final 2014 RSA, Commercial Quota, and RHL

The Council preliminarily approved 703,385 lb (319 mt) of RSA quota for future research projects. Proportional adjustments of this amount to the commercial and recreational allocations results in a final commercial quota of 8.674 million lb (3,934 mt) and a final RHL of 14.069 million lb (6,382 mt).

Final Recreational Possession Limit

The current recreational possession limit of up to 15 fish per person is maintained to achieve the RHL for both 2013 and 2014.

Final State Commercial Allocations

The final state commercial quotas for 2013 and the preliminary 2014 commercial quotas are shown in Table 1, based on the percentages specified in the FMP. If any state overages occur in 2013 that alter the 2014 quotas, NMFS will publish a rule to implement the revised 2014 quotas.

TABLE 1—FINAL BLUEFISH COMMERCIAL STATE-BY-STATE ALLOCATIONS FOR 2013 AND 2014

[Including RSA deductions]

State	Percent share	2013 Commercial quota (lb)	2013 Commercial quota (kg)	2014 Commercial quota (lb)	2014 Commercial quota (kg)
ME	0.6685	60,673	27,521	57,985	26,302
NH	0.4145	37,620	17,064	35,953	16,308
MA	6.7167	609,606	276,513	582,603	264,264
RI	6.8081	617,902	280,275	590,531	267,860
CT	1.2663	114,929	52,131	109,838	49,822
NY	10.3851	942,548	427,533	900,796	408,595
NJ	14.8162	1,344,713	609,952	1,285,146	582,933
DE	1.8782	170,465	77,322	162,914	73,897
MD	3.0018	272,443	123,578	260,374	118,104
VA	11.8795	1,078,179	489,054	1,030,419	467,390
NC	32.0608	2,909,829	1,319,876	2,780,933	1,261,410
SC	0.0352	3,195	1,449	3,053	1,385
GA	0.0095	862	391	824	374
FL	10.0597	913,014	414,136	872,570	395,792
Total	100.0001	9,075,976	4,116,795	8,673,941	3,934,435

Comments and Responses

The public comment period for the proposed rule ended on March 7, 2013. Two comments were received from individuals on the proposed rule. A summary and response to the concerns raised by the commenters are included below.

Comment 1: One commenter generally criticized NMFS and the data used to set catch limits, but had no clear evidence to support their claims.

Response: Atlantic bluefish are not overfished, nor are they subject to overfishing; therefore, there is no scientific basis for making changes to the quotas based on this comment. NMFS used the best scientific information available and is approving specifications for the bluefish fishery that are consistent with the FMP and recommendations of the Council.

Comment 2: A charter/party boat operator in the Atlantic bluefish fishery in Massachusetts opposed the recreational possession limit of 15 fish due to increased fishing pressure and recommended reducing the possession limit.

Response: Atlantic bluefish are not overfished; nor are they subject to overfishing. There is no scientific basis for reducing the recreational possession limit. The RHL has not been exceeded in recent years with a possession limit of 15 fish, so it appears that a reduction in the possession limit would unnecessarily reduce recreational landings. NMFS used the best scientific information available and is approving specifications for the bluefish fishery that are consistent with the FMP and the recommendations of the Council.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule is exempt from review under Executive Order 12866.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

The FRFA included in this final rule was prepared pursuant to 5 U.S.C. 604(a), and incorporates the IRFA and a summary of analyses completed to support the action. A public copy of the EA/RIR/IRFA is available from the Council (see **ADDRESSES**).

The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being taken, and the objectives of and legal basis for this final rule are contained in the preambles to the proposed rule and this final rule and are not repeated here.

Summary of Significant Issues Raised in Public Comments

Two comments were submitted on the proposed rule. However, none were specific to the IRFA or to the economic impacts of the proposed rule more generally.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

Small businesses operating in commercial and recreational (i.e., party and charter vessel operations) fisheries have been defined by the Small Business Administration as firms with gross revenues of up to $4.0 and $6.5 million, respectively. The categories of small entities likely to be affected by this action include commercial and charter/party vessel owners holding an active Federal permit for Atlantic bluefish, as well as owners of vessels that fish for Atlantic bluefish in state waters. All federally permitted vessels fall into the definition of small businesses; thus, there would be no disproportionate impacts between large and small entities as a result of the final rule.

An active participant in the commercial sector was defined as any vessel that reported having landed 1 or more lb (0.45 kg) in the Atlantic bluefish fishery in 2011 (the last year for which there are complete data). The active participants in the commercial sector were defined using two sets of data. The Northeast seafood dealer reports were used to identify 742 vessels that landed bluefish in states from Maine through North Carolina in 2011. However, the Northeast dealer database does not provide information about fishery participation in South Carolina, Georgia, or Florida. South Atlantic Trip Ticket reports were used to identify 768 vessels that landed bluefish in North Carolina, and 791 vessels that landed bluefish on Florida's east coast. Some of these vessels were also identified in the Northeast dealer data; therefore, double counting is possible. Bluefish landings

in South Carolina and Georgia were near zero in 2011, representing a negligible proportion of the total bluefish landings along the Atlantic Coast. Therefore, this analysis assumed that no vessel activity for these two states took place in 2011. In recent years, approximately 2,000 party/charter vessels may have been active in the bluefish fishery and/or have caught bluefish.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps Taken To Minimize Economic Impact on Small Entities

Specification of commercial quota, recreational harvest levels, and possession limits is constrained by the conservation objectives of the FMP, under the authority of the Magnuson-Stevens Act. The 2013 commercial quota contained in this final rule is 12 percent lower than the 2012 quota, but significantly higher than actual 2012 bluefish landings. All affected states will receive decreases in their individual commercial quota allocation in comparison to their respective 2012 individual state allocations. However, the magnitude of the increase varies depending on the state's relative percent share in the total commercial quota, as specified in the FMP. The 2014 commercial quota contained in this final rule is 4 percent lower than the 2013 quota.

The 2013 and 2014 RHL contained in this final rule is approximately 19 percent lower than the RHL in 2012. The 2013 and 2014 RHL is the same as the total estimated recreational bluefish harvest for 2013 and 2014, and therefore it does not constrain recreational bluefish harvest below a level that the fishery is anticipated to achieve. The possession limit for bluefish will remain at 15 fish per person, so there should be no impact on demand for party/charter vessel fishing and, therefore, no impact on revenues earned by party/charter vessels. No negative economic impacts on the recreational fishery are anticipated.

The impacts on revenues associated with the proposed RSA quota were analyzed and are expected to be minimal. Assuming that the full RSA quota 715,819 lb (325 mt) for 2013 and 703,385 lb (319 mt) for 2014 is landed and sold to support the proposed research projects, then all of the participants in the fishery would benefit from the improved fisheries data yielded from each project.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of Federal permits issued for the Atlantic bluefish fishery.

In addition, copies of this final rule and guide (i.e., permit holder letter) are available upon request, and posted on the Northeast Regional Office's Web site at *www.nero.noaa.gov.*

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

Dated: May 2, 2013.

Alan D. Risenhoover,

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

[FR Doc. 2013–10805 Filed 5–6–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 130114034–3422–02]

RIN 0648–BC93

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures for the 2013 Tribal and Non-Tribal Fisheries for Pacific Whiting

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule for the 2013 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This final rule establishes the tribal allocation of 63,205 metric tons of Pacific whiting for 2013, and final allocations of Pacific whiting to the non-tribal fishery for 2013.

DATES: Effective May 7, 2013.

FOR FURTHER INFORMATION CONTACT: Kevin C. Duffy (Northwest Region, NMFS), phone: 206–526–4743, fax: 206–526–6736 and email: *kevin.duffy@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the **Federal Register** Web site at *https://www.federalregister.gov.* Background information and documents are available at the NMFS Northwest Region Web site at *http://www.nwr.noaa.gov/fisheries/management/whiting/pacific_whiting.html* and at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/.*

Copies of the final environmental impact statement (FEIS) for the 2013–2014 Groundfish Specifications and Management Measures are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280.

Background

This rule announces the Total Allowable Catch (TAC) for whiting, expressed in metric tons (mt). This is the second year that the TAC for Pacific whiting is being determined under the terms of Agreement with Canada on Pacific Hake/Whiting (the Agreement) and the Pacific Whiting Act of 2006 (the Whiting Act), 16 U.S.C. 7001–7010. The Agreement and the Act establish bilateral bodies to implement the terms of the Agreement, each with various responsibilities, including: The Joint Management Committee (JMC), which is the decision-making body; the Joint Technical Committee (JTC), which conducts the stock assessment; the Scientific Review Group (SRG), which reviews the stock assessment; and the Advisory Panel (AP), which provides stakeholder input to the JMC (The Agreement, Art. II–IV; 16 U.S.C. 7001–7005). The Agreement establishes a default harvest policy (F–40 percent with a 40/10 adjustment) and allocates 73.88 percent of the TAC to the United States and 26.12 percent of the TAC to Canada. The bilateral JMC is primarily responsible for developing a TAC recommendation to the Parties (United States and Canada). The Secretary of

Commerce, in consultation with the Secretary of State, has the authority to accept or reject this recommendation.

The Joint Technical Committee (JTC) met three times over the last six months to prepare the 2013 stock assessment for Pacific hake (whiting). The assessment presents a single base-case model using nine years of an acoustic survey biomass index as well as catches to estimate the scale of the current hake stock. The 2012 acoustic-trawl survey result was a relative biomass 1,380,000 mt, an increase of 2.5 times the 2011 survey biomass of 521,000 mt, which is the lowest in the time series. The age-composition data from the aggregated fisheries (1975–2012) and the acoustic survey contribute to the assessment model's ability to resolve strong and weak cohorts. The survey and the fishery were dominated by age 2 (63.7 percent survey; 34.6 percent fishery) and 4 (16.1 percent survey; 34.5 percent) year old fish from the 2010 and 2008 year classes, with differences due to the different selectivity of young fish to the survey vs. the fishery. Both sources indicate a strong 2008 cohort in the 2011 and 2012 data (age 4 hake), and a strong 2010 cohort in the 2012 data (age 2 hake), which may partially explain the recent increase in the survey index.

The median estimated female biomass is 1,503,000 mt at the beginning of 2013 and is expected to be stable to increasing through 2015 due to an expected very large 2010 year class and the above average 2008 year class. This level of estimated spawning biomass has not been seen since 1993. The 2012 survey verified the strength of the 2008 year class and finds that the 2010 year class seems even stronger, but there is uncertainty in the 2010 year class strength because it has only been observed once by the survey. Agreement between the most recent acoustic survey and commercial fishery age composition data as well as the most recent acoustic survey biomass index engenders greater confidence in the 2013 assessment estimates than if there was no survey data from 2012.

Until cohorts are five or six years old, the model's ability to resolve cohort strength is poor. For many of the recent above average cohorts (2005, 2006, and 2008), the size of the year class was overestimated when it was age 2, compared to updated estimates as the cohort aged and more observations were available from the fishery and survey. Given that there is some uncertainty in the estimate of the 2010 year class, and that the size of this year class has a strong effect on a projected 2013 catch, the JTC developed additional forecast decision tables reflecting a low, medium, and high range of recruitment for the 2010 year class. Using the more conservation-minded low-recruitment state of nature, there is an equal probability that the spawning stock biomass in 2014 will be less or greater than the spawning biomass in 2013 with a catch between 300,000 and 350,000 mt. There is an equal probability that the spawning biomass will be below 40 percent of unfished equilibrium spawning biomass with a 2013 catch near 400,000 mt.

The JTC provided tables showing the outcome and probabilities of various events under different catch alternatives for 2013. For the base case median recruitment, the probability that the spawning stock biomass in 2014 remains above the 2013 level is 50 percent with a catch of 603,000 mt, the probability that the fishing intensity is above target in 2013 is 50 percent with a catch of 626,364 mt, and the probability that the predicted 2014 catch target is the same as a set value in 2013 is 50 percent for a set value of 696,000 mt in 2013. There is a less than 12 percent probability that the spawning stock biomass will drop below 40 percent in 2014 for all catch levels considered. This information indicates probabilities at projected catch levels that were significantly higher than the TAC levels recommended by the JMC, reinforcing the conservative nature of the proposed fishing regime in 2013.

The two cohorts that will likely be supporting the 2013 fishery will be ages 3 and 5. Cohorts in this age range are near their peak biomass and potential maximum contribution to lifetime yield. Because of this, an argument could be made to fish the stock harder because the contribution to the population from these age classes will start to decline in future years. However, there is still considerable risk in fishing them too hard until the absolute size of these cohorts is verified, particularly the 2010 year class, which is still very young and thus not yet well characterized. A conservative estimate of the 2010 year class strength (using only the lower 10 percent of the model estimated recruitment) reduces the strength from a median estimate of 11.6 billion recruits (a near record size) to 6.9 billion recruits, which is near the size of the 1970 and 1999 recruitments.

The Scientific Review Group (SRG) met in Vancouver, British Columbia, on February 19–22, 2013, to review the draft stock assessment document prepared by the JTC. The SRG endorsed the assessment and recommended that it be used for management advice. Along with the JTC, the SRG recommended (for consideration by the JMC) a range of 336,000—626,000 mt as plausible harvest levels in 2013. The upper end would implement the default harvest policy in the Agreement and would allow some continued biomass growth into 2014 if the current assessment result is accurate. The lower level, using only the lower 10 percent of the model estimated recruitment, would still not exceed the harvest policy even if the 2010 year class is only 51 percent of its current estimate.

At its March 18–19, 2013 meeting, the JMC reviewed the advice of the JTC, SRG, and AP, and agreed on a TAC recommendation for transmittal to the Parties. The JMC focused on the conservative estimate of the 2010 year class strength (using only the lower 10 percent of the model estimated recruitment) and the SRG suggested target catch of 336,200 mt, based primarily on concerns that this lower bound may indeed reflect the true state of nature. This conservative approach resulted in a TAC recommendation of 336,200 mt, with adjustments upwards for uncaught Pacific whiting in 2012, as allowed by the Agreement, for a coastwide adjusted TAC of 365,112 mt for 2013. The TAC recommendation is expected to sustain the offshore hake/whiting resource in the event that the 2010 year class is not as large as expected, while still allowing a substantial increase in TAC compared to 2012.

The recommendation for an adjusted United States TAC of 269,745 mt for 2013 (73.88 percent of the coastwide TAC) is consistent with the best available science, provisions of the Agreement, and the Whiting Act. The recommendation was transmitted via letter to the Parties on March 19, 2013. NMFS, under delegation of authority from the Secretary of Commerce, approved the TAC recommendation of 269,745 mt for U.S. fisheries on April 15, 2013.

Tribal Fishery Allocation

This final rule establishes the tribal allocation of Pacific whiting for 2013. NMFS issued a proposed rule for the allocation and management of the 2013 tribal Pacific whiting fishery on March 5, 2013 (78 FR 14259). This action finalizes the allocation and management measures.

Since 1996, NMFS has been allocating a portion of the U.S. TAC of Pacific whiting to the tribal fishery using the process established in 50 CFR 660.50(d)(1). According to the formula found in that section, the tribal allocation is subtracted from the total U.S. Pacific whiting TAC and the

remainder, less a deduction of 2,500 mt for research and bycatch in non-groundfish fisheries (for 2013 only), is allocated to the non-tribal sectors. The tribal Pacific whiting fishery is managed separately from the non-tribal whiting fishery, and is not governed by the limited entry or open access regulations or allocations.

The proposed rule described the tribal allocation as 17.5 percent of the U.S. TAC plus 16,000 mt, and projected a range of potential tribal allocations for 2013 based on a range of U.S. TACs over the last ten years, 2003 through 2012. This range of TACs is 148,200 mt (2003) to 290,903 mt (2011). The resulting range of potential tribal allocations is 41,935 mt to 66,906 mt.

As described earlier in this preamble, the U.S. TAC for 2013 is 269,745 mt. Applying the formula at 50 CFR 660.50(d)(1), NMFS calculated that the tribal allocation implemented by this final rule is 63,205 mt (17.5 percent of the U.S. TAC or 47,205 mt, plus 16,000 mt). While the total amount of whiting to which the Tribes are entitled under their treaty right has not yet been determined, and new scientific information or discussions with the relevant parties may impact that decision, the best available scientific information to date suggests that 63,205 mt (23 percent of the 2013 U.S. TAC) is within the likely range of potential treaty right amounts.

As with prior tribal whiting allocations, this final rule is not intended to establish any precedent for future Pacific whiting seasons, or for the determination of the total amount of whiting to which the Tribes are entitled under their treaty right. Rather, this rule adopts an interim allocation, pending the determination of the total treaty amount. That amount will be based on further development of scientific information and additional coordination and discussion with and among the coastal tribes and States of Washington and Oregon. The process of determining that amount, begun in 2008, is continuing.

Non-Tribal Allocations

This final rule establishes the non-tribal allocation for the Pacific whiting fishery. The non-tribal allocation was not included in the tribal whiting proposed rule published on March 5, 2013 (78 FR 14259) for two reasons related to timing and process. First, a recommendation on the coastwide TAC for Pacific whiting for 2013, under the terms of the Agreement with Canada, was not available until March 19, 2013. This recommendation for a U.S. TAC was approved by NMFS, under delegation of authority from the Secretary of Commerce, on April 15, 2013. Second, the non-tribal allocation is established after deductions from the U.S. TAC for the tribal allocation (63,205 mt) and set asides for research and incidental catch in non-groundfish fisheries (2,500 mt). The non-tribal allocation is therefore being finalized in this rule.

The 2013 fishery harvest guideline (HG) for Pacific whiting is 204,040 mt. This amount was determined by deducting from the total U.S. TAC of 269,745 mt, the 63,205 mt tribal allocation, along with 2,500 mt for research catch and bycatch in non-groundfish fisheries. Regulations at 50 CFR 660.55 (f)(2) allocate the fishery HG among the non-tribal catcher/processor, mothership, and shorebased sectors of the Pacific whiting fishery. The catcher/processor sector is allocated 34 percent (69,373 mt for 2013), the mothership sector is allocated 24 percent (48,970 mt for 2013), and the shorebased sector is allocated 42 percent (85,697 mt for 2013). The fishery south of 42° N. lat. may not take more than 4,284 mt (5 percent of the shorebased allocation) prior to the start of the primary Pacific whiting season north of 42° N. lat.

The 2013 allocations of Pacific Ocean perch, canary rockfish, darkblotched rockfish, and widow rockfish to the whiting fishery were published in a final rule on January 3, 2013 (78 FR 580). The allocations to the Pacific whiting fishery for these species are described in the footnotes to Table 1.b To Part 660, Subpart C–2013.

Comments and Responses

On March 5, 2013, NMFS issued a proposed rule for the allocation and management of the 2013 tribal Pacific whiting fishery. The comment period on the proposed rule closed on April 4, 2013. During the comment period, NMFS received two letters of comment. The U.S. Department of Interior submitted a letter of ''no comment'' associated with their review of the proposed rule.

A letter was received from a commercial fishing organization. In their letter, they state that given past performance in the tribal fishery, the lack of demonstrable fishery operations from the Quileute tribe, and the potential economic harm to the non-tribal fishery, the proposed tribal whiting set aside is too high. They state that the proposed tribal whiting set aside for 2013 is not justified by past fishery performance, and fails in striking an appropriate balance of the treaty rights of the tribes against the Agency's obligation to achieve optimum yield. They suggest that NMFS: Establish a realistic 2013 tribal whiting set aside that is bolstered by fishery plans from each tribe; and aptly and effectively exercise its reapportionment authority.

Response: In determining the tribal allocation, NMFS must ensure that the tribes have the opportunity to exercise their treaty right, which is ''other applicable law'' under the Magnuson-Stevens Act. As noted above, the amount requested by the tribes appears to be within the amount to which they are entitled by treaty, as suggested by the best available science. Although the allocation to the tribal fishery in 2013 is a higher allocation amount than 2012 (63,205 mt versus 48,556 mt), the percent of the TAC allocated to the tribes in 2013 represents approximately 23 percent of the U.S. TAC, versus 26 percent of the U.S. TAC in 2012.

As the commenter has noted, the reapportionment process is available to NMFS to address the situation in which the tribes are unable to use their full allocation. NMFS will monitor both the tribal and non-tribal fishery during the season, and will remain in contact with tribal representatives in order to determine, to the extent practicable, the likely harvest levels in the tribal fishery. If circumstances supporting reapportionment under NMFS' regulations arise, NMFS will be prepared to expeditiously reapportion Pacific whiting from the tribal to the non-tribal sector, in order to manage the fishery in a manner consistent with both the implementation of the tribal treaty right and the Magnuson Stevens Act requirements.

Classification

The final Pacific whiting specifications and management measures for 2013 are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and the Pacific Whiting Act of 2006, and are in accordance with 50 CFR part 660, subparts C through G, the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). NMFS has determined that this rule is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making the final determination, took into account the data, views, and comments received during the comment period.

NMFS has determined that the tribal whiting fishery, conducted off the coast of the State of Washington, is consistent, to the maximum extent practicable, with the approved coastal zone management program of the States of Washington and

Oregon. NMFS has also determined that the Pacific whiting fishery, both tribal and non-tribal, is consistent, to the maximum extent practicable, with approved coastal zone management programs for the States of Washington and Oregon. The State of Washington submitted a letter of concurrence on February 25, 2013. The State of Oregon did not respond and consistency is inferred.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the NMFS Assistant Administrator finds good cause to waive prior public notice and comment and delay in effectiveness the 2013 annual harvest specifications for Pacific whiting, as delaying this rule would be contrary to the public interest. The annual harvest specifications for Pacific whiting must be implemented by the start of the main primary Pacific whiting season, which begins on May 15, 2013, or the primary whiting season will effectively remain closed.

Every year, NMFS conducts a Pacific whiting stock assessment in which U.S. and Canadian scientists cooperate. The 2013 stock assessment for Pacific whiting was prepared in early 2013, as the new 2012 data—including updated total catch, length and age data from the U.S. and Canadian fisheries, and biomass indices from the Joint U.S.-Canadian acoustic/midwater trawl surveys—were not available until January, 2013. Because of this late availability of the most recent data for the assessment, and the need for time to conduct the treaty process for determining the TAC using the most recent assessment, it would not be possible to allow for notice and comment before the start of the primary Pacific whiting season on May 15.

A delay in implementing the Pacific whiting harvest specifications to allow for notice and comment would be contrary to the public interest because it would require either a shorter primary whiting season or development of a TAC without the most recent data. A shorter season could prevent the tribal and non-tribal fisheries from attaining their 2013 allocations, which would result in unnecessary short-term adverse economic effects for the Pacific whiting fishing vessels and the associated fishing communities. A TAC determined without the most recent data could fail to account for significant fluctuations in the biomass of this relatively short-lived species. To prevent these adverse effects and to allow the Pacific whiting season to commence, it is in the public interest to waive prior notice and comment.

In addition, pursuant to 5 U.S.C. 553(d)(3), the NMFS Assistant Administrator finds good cause to waive the 30-day delay in effectiveness. Waiving the 30-day delay in effectiveness will not have a negative impact on any entities, as there are no new compliance requirements or other burdens placed on the fishing community with this rule. Failure to make this final rule effective at the start of the fishing year will undermine the intent of the rule, which is to promote the optimal utilization and conservation of Pacific whiting. It would also serve the best interests of the public because it will allow for the longest possible Pacific whiting fishing season and therefore the best possible economic outcome for those whose livelihoods depend on this fishery. Because the 30-day delay in effectiveness would potentially cause significant financial harm without providing any corresponding benefits, this final rule is made effective May 7, 2013.

The preamble to the proposed rule and this final rule serve as the small entity compliance guide required by Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action does not require any additional compliance from small entities that is not described in the preamble. Copies of this final rule are available from NMFS at the following Web site: *http://www.nwr.noaa.gov/fisheries/management/whiting/pacific_whiting.html.*

Rulemaking must comply with Executive Order (EO) 12866 and the Regulatory Flexibility Act (RFA). The Office of Management and Budget has determined that this final rule is not significant for purposes of Executive Order 12866.

The NMFS Economic Guidelines that describe the RFA and EO 12866 can be found at *http://www.nmfs.noaa.gov/sfa/domes_fish/EconomicGuidelines.pdf*

The RFA can be found at *http://www.archives.gov/federal-register/laws/regulatory-flexibility/*

Executive Order 12866 can be found at *http://www.plainlanguage.gov/populartopics/regulations/eo12866.pdf*

When an agency proposes regulations, the RFA requires the agency to prepare and make available for public comment an Initial Regulatory Flexibility Act (IRFA) document that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. After the public comment period, the agency prepares a Final Regulatory Flexibility Analysis (FRFA) that takes into consideration any new information and public comments. This FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS published the proposed rule on March 5, 2013 78 FR 14259, with a comment period through April 4, 2013. An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and not repeated here. Analytical requirements for the FRFA are described in Regulatory Flexibility Act, section 304(a)(1) through (5), and summarized below. The FRFA must contain: (1) A succinct statement of the need for, and objectives of, the rule; (2) A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available; (4) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (5) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

This rule establishes the 2013 harvest specifications for Pacific whiting and the allocation of Pacific whiting for the tribal whiting fishery. This rule establishes the initial 2013 Pacific whiting allocations for the tribal fishery and the non-tribal sectors (catcher/processor, mothership, and shoreside), and the amount of Pacific whiting set

aside for research and incidental catch in other fisheries.

In 2012, the total estimated catch of whiting by tribal and non-tribal fishermen was 162,000 mt, or 87 percent of the U.S. TAC (186,037 mt). There was a late fall reapportionment of 28,000 mt of Pacific whiting from the tribal to non-tribal sectors. The tribal harvest was less than 1,000 mt, approximately 3 percent of the final tribal allocation of 20,556 mt. In total, non-tribal sectors harvested 97 percent of the final non-tribal allocation of 163,381 mt. This rule increases the U.S. TAC for 2013 to 269,745 mt, and the tribal allocation will increase to 63,205 mt. After setting aside 2,500 mt for research catch and bycatch in non-groundfish fisheries, the overall non-tribal allocation for 2013 is 204,040 mt. The non-tribal allocation is 28 percent higher than the 2012 non-tribal catch. In 2012, total Pacific whiting ex-vessel revenues earned by tribal and non-tribal fisheries reached about $50 million. If the 2013 TAC is entirely harvested, projected ex-vessel revenues would reach $83 million, based on 2012 ex-vessel prices. (Note that ex-vessel revenues do not take into account wholesale or export revenues or the costs of harvesting and processing whiting into a finished product.)

There were no significant issues raised by the public comments in response to the IRFA. However, there was one comment that referred to small entities. Noting that the highest annual tribal catch has been 34,500 mt, one association representing large fishing companies commented that the proposed tribal allocation is too high. They suggested that NMFS should be more effective in reapportioning tribal whiting to minimize the amount of whiting stranded, as the reapportioning process allows unharvested tribal allocations to be fished by non-tribal fleets, benefitting both large and small businesses. The association also suggested that pre-season plans be required from the tribes. A detailed response to these comments is included in the comment and response section of this final rule.

This rule establishes a tribal allocation of 63,205 mt. This allocation is based on NMFS consultations with the tribes upon which tribes discuss their plans with NMFS. This allocation amount is within the long-term tribal treaty right to harvest. Applicable law requires NMFS to provide the tribes with the opportunity to harvest their treaty right. Should reapportionment in late fall be warranted, after discussions with the tribes, NMFS will determine the appropriate amount of fish to provide to the non-tribal fleets in accordance with applicable law.

It should be also noted that under Agreement with Canada on Pacific Hake/Whiting, as described in 77 FR 28501 (May 15, 2012), unharvested fish are not necessarily ''stranded.'' If at the end of the year, there are unharvested allocations, there are provisions for an amount of these fish to be carried over into the next year's allocation process. ''If, in any year, a Party's catch is less than its individual TAC, an amount equal to the shortfall shall be added to its individual TAC in the following year, unless otherwise recommended by the JMC. Adjustments under this sub-paragraph shall in no case exceed 15 percent of a Party's unadjusted individual TAC for the year in which the shortfall occurred.'' Such an adjustment was made for the 2013 fishery under the Agreement: This adjustment resulted in 7,552 mt being added to the Canadian share, for an adjusted Canadian TAC of 95,367 mt, and 21,360 mt being added to the United States share, for an adjusted United States TAC of 269,745 mt. This results in a coastwide adjusted TAC of 365,112 mt for 2013.

Under the RFA, the term ''small entities'' includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of $4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the $4.0 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. For marinas and charter/party boats, a small business is one with annual receipts not in excess of $7.0 million. The RFA defines small organizations as any nonprofit enterprise that is independently owned and operated and is not dominant in its field. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

This final rule affects how whiting is allocated to the following sectors/programs: Tribal, Shorebased Individual Fishing Quota (IFQ) Program—Trawl Fishery, Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery, and Catcher-Processor (C/P) Coop Program—Whiting At-sea Trawl Fishery. The amount of whiting allocated to these sectors is based on the U.S. TAC. From the U.S. TAC, small amounts of whiting that account for research catch and for bycatch in other fisheries are deducted. The amount of the tribal allocation is also deducted directly from the TAC prior to allocations to the non-tribal sectors. The remainder is the commercial harvest guideline. This guideline is then allocated among the other three sectors as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program.

The shorebased IFQ fishery is managed with individual fishing quotas for most groundfish species, including whiting. Annually, quota pounds (QP) are allocated from the shorebased sector allocation based on the individual quota shares (QS) of each QS owner. (QP is expressed as a weight and QS is expressed as a percent of the shorebased allocation for a given species or species group.). Quota pounds (QP) may be transferred from a QS account to a vessel account or from one vessel account to another vessel account. Vessel accounts are used to track how QP is harvested as QP is to cover catch (landings and discards) by limited entry trawl vessels of all IFQ species/species groups. Shorebased IFQ catch must be landed at authorized first receiver sites. The IFQ whiting quota shares (QS) were allocated to a mixture of limited entry permit holders and shorebased processors. One non-profit organization received quota share based on the ownership of multiple limited entry permits. The Mothership (MS) coop sector can consist of one or more coops and a non-coop subsector. For a MS coop to participate in the Pacific whiting fishery, it must be composed of MS catcher-vessel (MSCV) endorsed limited entry permit owners. Each permitted MS coop is authorized to harvest a quantity of Pacific whiting based on the sum of the catch history assignments for each member's MS/Catcher Vessel (MSCV) endorsed permit identified in the NMFS accepted coop

agreement for a given calendar year. Each MS/CV endorsed permit has an allocation of Pacific whiting catch based on its catch history in the fishery. The catch history assignment (CHA) is expressed as a percentage of Pacific whiting of the total MS sector allocation. Currently the MS sector is composed of only a single coop. The Catcher/Processor (C/P) coop program is a limited access program that applies to vessels in the C/P sector of the Pacific whiting at-sea trawl fishery and is a single voluntary coop. Unlike the MS coop regulations where multiple coops can be formed around the catch history assignments of each coop's member's endorsed permit, the single C/P coop receives the total Pacific whiting allocation for the C/P sector. Only C/P endorsed limited entry permits can participate in this coop. Currently (February 2013), the Shorebased IFQ Program is composed of 138 QS permits/accounts, 142 vessel accounts, and 50 first receivers. The MS coop fishery is currently composed of a single coop, with six mothership processor permits, and 36 MS/CV endorsed permits with one permit having two catch history assignments endorsed to it. The C/P coop is composed of 10 catcher-processor permits owned by three companies. There are four tribes that can participate in the tribal whiting fishery. The current tribal fleet is composed of 5 trawlers that either deliver to a shoreside plant or to a contracted mothership.

These regulations directly affect IFQ Quota share holders who determine which vessel accounts receive QP, holders of MS/CV endorsed permits who determine how many coops will participate in the fishery and how much fish each coop is to receive, and the CP coop which is made up of three companies that own the CP permits. As part of the permit application processes for the non-tribal fisheries, based on a review of the SBA size criteria, applicants are asked if they considered themselves a ''small'' business and to provide detailed ownership information. Although there are three non-tribal sectors, many companies participate in two or more of these sectors. All MS/CV participants are involved in the shorebased IFQ sector while two of the three CP companies also participate in both the shorebased IFQ sector and in the MS sector. Many companies own several QS accounts. After accounting for cross participation, multiple QS account holders, and for affiliation through ownership, there are 100 non-tribal entities directly affected by these regulations, 82 of which are considered to be ''small'' businesses. These regulations also directly affect tribal whiting fisheries. Based on groundfish ex-vessel revenues and on tribal enrollments (the population size) of each tribe, the four tribes and their fleets are considered ''small'' entities.

There are no recordkeeping requirements associated with this final rule.

This final rule directly regulates what entities can harvest whiting. This rule allocates fish between tribal harvesters (harvest vessels are small entities, tribes are small jurisdictions) and to non-tribal harvesters (a mixture of small and large businesses). Tribal fisheries are a mixture of activities that are similar to the activities that non-tribal fisheries undertake. Tribal harvests are delivered to both shoreside plants and motherships for processing. These processing facilities also process fish harvested by non-tribal fisheries.

The alternatives to the 2013 interim tribal allocation implemented by this rule are the ''No-Action'' and the ''Proposed Action (or preferred alternative).'' The preferred alternative, based on discussions with the tribes, is for NMFS to allocate between 28 percent and 23 percent of the U.S. total allowable catch for 2013. NMFS did not consider a broader range of alternatives to the proposed allocation. The tribal allocation is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for whiting. Consideration of amounts lower than the tribal requests is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights, and the participating tribe has on occasion shown an ability to harvest the amount of whiting requested. A higher allocation would, arguably, also be within the scope of the treaty right. However, a higher allocation would unnecessarily limit the non-tribal fishery.

A no-action alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, no action would result in no allocation of Pacific whiting to the tribal sector in 2013, which would be inconsistent with NMFS' responsibility to manage the fishery consistent with the tribes' treaty rights. Given that there are tribal requests for allocations in 2013, this alternative was rejected.

There are no significant alternatives to the rule that accomplish the stated objectives of applicable statutes and the treaties with the affected tribes that minimize any of the significant economic impact of the proposed rule on small entities. NMFS believes this final rule will not adversely affect small entities. Sector allocations are higher than sector catches in 2012, so this rule will be beneficial to both large and small entities.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006 concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior ''no jeopardy'' conclusion. NMFS also reaffirmed its prior determination that implementation of the Groundfish PCGFMP is not likely to jeopardize the continued existence of any of the affected ESUs. Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or

no bycatch of coho, chum, sockeye, and steelhead.

On December 7, 2012, NMFS completed a biological opinion concluding that the groundfish fishery is not likely to jeopardize non-salmonid marine species including listed eulachon, green sturgeon, humpback whales, Steller sea lions, and leatherback sea turtles. The opinion also concludes that the fishery is not likely to adversely modify critical habitat for green sturgeon and leatherback sea turtles. An analysis included in the same document as the opinion concludes that the fishery is not likely to adversely affect green sea turtles, olive ridley sea turtles, loggerhead sea turtles, sei whales, North Pacific right whales, blue whales, fin whales, sperm whales, Southern Resident killer whales, Guadalupe fur seals, or the critical habitat for Steller sea lions.

As Steller sea lions and humpback whales are also protected under the Marine Mammal Protection Act (MMPA), incidental take of these species from the groundfish fishery must be addressed under MMPA section 101(a)(5)(E). On February 27, 2012, NMFS published notice that the incidental taking of Steller sea lions in the West Coast groundfish fisheries is addressed in NMFS' December 29, 2010 Negligible Impact Determination and this fishery has been added to the list of fisheries authorized to take Steller sea lions (77 FR 11493). NMFS is currently developing MMPA authorization for the incidental take of humpback whales in the fishery.

On November 21, 2012, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion concluding that the groundfish fishery will not jeopardize the continued existence of the short-tailed albatross. The FWS also concurred that the fishery is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, nor bull trout critical habitat.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Consistent with the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council is a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, NMFS has coordinated specifically with the tribes interested in the whiting fishery regarding the issues addressed by this rule.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: May 2, 2013.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 773 *et seq.*

■ 2. In § 660.50, paragraph (f)(4) is revised to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Pacific whiting.* The tribal allocation for 2013 is 63,205 mt.

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■ 3. Table 1a, to part 660, subpart C, is revised to read as follows:

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Table 1a. To Part 660, Subpart C- 2013, Specifications of OFL, ABC, ACL, ACT and Fishery Harvest guidelines(weights in metric tons).

Species	Area	OFL	ABC	ACL a/	Fishery HG b/
Arrowtooth flounder c/	Coastwide	7,391	6,157	6,157	4,070
Black d/ e/	N of 46°16' N. lat.	430	411	411	397
	S of 46°16' N. lat.	1,159	1,108	1,000	1,000
Bocaccio f/	S of 40°10' N. lat.	884	845	320	311.6
Cabezon g/ h/	46°16' to 42° N. lat.	49	47	47	47
	S of 42° N. lat.	170	163	163	163
California scorpionfish i/	S of 34°27' N. lat.	126	120	120	118
Canary rockfish j/	Coastwide	752	719	116	98.5
Chilipepper k/	S of 40°10' N. lat.	1,768	1,690	1,690	1,466
Cowcod l/	S of 40°10' N. lat.	11	9	3	2.9
Darkblotched rockfish m/	Coastwide	541	517	317	296.2
Dover sole n/	Coastwide	92,955	88,865	25,000	23,410
English sole o/	Coastwide	7,129	6,815	6,815	6,712
Lingcod p/ q/	N of 40° 10' N. lat.	3,334	3,036	3,036	2,758
	S of 40° 10' N. lat.	1,334	1,111	1,111	1,102
Longnose skate r/	Coastwide	2,902	2,774	2,000	1,928
Longspine thornyhead s/	N of 34°27' N. lat.	3,391	2,825	2,009	1,963
	S of 34°27' N. lat.			356	353
Minor nearshore rockfish north t/	N of 40°10' N. lat.	110	94	94	94
Minor shelf rockfish north u/	N of 40°10' N. lat.	2,183	1,920	968	903
Minor slope rockfish north v/	N of 40°10' N. lat.	1,518	1,381	1,160	1,098
Minor nearshore rockfish south w/	S of 40°10' N. lat.	1,164	1,005	990	990
Minor shelf rockfish south x/	S of 40°10' N. lat.	1,910	1,617	714	668.0
Minor slope rockfish south y/	S of 40°10' N. lat.	681	618	618	597
Other fish z/	Coastwide	6,832	4,717	4,717	4,540
Other flatfish aa/	Coastwide	10,060	6,982	4,884	4,682
Pacific cod bb/	Coastwide	3,200	2,221	1,600	1,191
Pacific ocean perch (POP) cc/	N of 40° 10' N. lat.	844	807	150	133.5
Pacific whiting dd/	Coastwide	626,364	dd/	dd/	204,040
Petrale sole ee/	Coastwide	2,711	2,592	2,592	2,358.0
Sablefish ff/ gg/	N of 36° N. lat.	6,621	6,045	4,012	See Table 1c
	S of 36° N. lat.			1,439	1,434
Shortbelly hh/	Coastwide	6,950	5,789	50	48
Shortspine thornyhead ii/	N of 34°27' N. lat.	2,333	2,230	1,540	1,481
	S of 34°27' N. lat.			397	355
Splitnose jj/	S of 40°10' N. lat.	1,684	1,610	1,610	1,598
Starry flounder kk/	Coastwide	1,825	1,520	1,520	1,513
Widow ll/	Coastwide	4,841	4,598	1,500	1,411
Yelloweye rockfish mm/	Coastwide	51	43	18	12.2
Yellowtail nn/	N of 40°10' N. lat.	4,579	4,378	4,378	3,677

a/ ACLs, ACTs and HGs are specified as total catch values.

b/ Fishery harvest guideline means the harvest guideline or quota after subtracting from the ACL or ACT Pacific Coast treaty Indian tribes allocations or projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs.

c/ Arrowtooth flounder. The stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 7,391 mt is based on the 2007 assessment with an $F_{30\%}$ F_{MSY} proxy. The ABC of 6,157 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. Because the stock is above $B_{25\%}$, the ACL is set equal to the ABC. 2,087.39 mt is deducted from the ACL for the Tribal fishery (2,041 mt), the incidental open access fishery (30 mt), and research catch (16.39 mt), resulting in a fishery HG of 4,070 mt.

d/ Black rockfish north (Washington). A stock assessment was prepared for black rockfish north of 45°46' N. lat. (Cape Falcon, Oregon) in 2007. The biomass in the north was estimated to be at 53 percent of its unfished biomass in 2007. The OFL from the assessed area is based on the 2007 assessment with a harvest rate proxy of $F_{50\%.}$ The resulting OFL for the area north of 46°16 N. lat. is 430 mt and is 97 percent of the OFL from the assessed area, based on the area distribution of historical catch. The ABC of 411 mt for the north is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL was set equal to the ABC, since the stock is above $B_{40\%}$. 14 mt is deducted from the ACL for the Tribal fishery, resulting in a fishery HG of 397 mt.

e/ Black rockfish south (Oregon and California). A stock assessment was prepared for black rockfish south of 45°46 N. lat. (Cape Falcon, Oregon) to Central California in 2007. The biomass in the south was estimated to be at 70 percent of its unfished biomass in 2007. The OFL from the assessed area is based on the 2007 assessment with a harvest rate proxy of $F_{50\%}$ plus 3 percent of the OFL from the stock assessment prepared for black rockfish north of 45°46' N. lat. The resulting OFL for the area south of 46°16 N. lat. is 1,159 mt. The ABC of 1,108 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 2013 and 2014 ACL is 1,000 mt, which maintains the constant catch strategy designed to keep the stock biomass above $B_{40\%}$. There are no deductions from the ACL, thus the fishery HG is equal to the ACL. The black rockfish ACL in the area south of 46°16' N. lat. (Columbia River), is subdivided with separate HGs being set for the waters off Oregon (580 mt/58 percent) and for the waters off California (420 mt/42 percent).

f/ Bocaccio. A bocaccio stock assessment update was prepared in 2011 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10' N. lat. and within the minor shelf rockfish complex north of 40°10' N. lat. Historical catch distribution of approximately 6 percent was used to apportion the assessed stock to the area north of 40°10' N. lat. The bocaccio stock was estimated to be at 26 percent of its unfished biomass in 2011. The OFL of 884 mt is based on the 2011 stock assessment STAT model with an F_{MSY} proxy of $F_{50\%}$. The ABC of 845 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 320 mt ACL is based on a rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 8.4 mt is deducted from the ACL for the incidental open access fishery (0.7 mt), EFP catch (6.0 mt) and research catch (1.7 mt), resulting in a fishery HG of 311.6 mt. The California recreational fishery has an HG of 163.5.

g/ Cabezon (Oregon). A cabezon stock assessment was prepared in 2009. The cabezon biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 47 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. No deductions are made from the ACL, so the fishery HG is equal to the ACL at 47 mt. Cabezon in waters off Oregon were removed from the "other fish" complex in 2011.

h/ Cabezon (California). A cabezon stock assessment was prepared in 2009. The cabezon biomass in waters off California was estimated to be at 48 percent of its unfished biomass in 2009. The OFL of 170 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 163 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. No deductions are made from the ACL, so the fishery HG is equal to the ACL at 163 mt.

i/ California scorpionfish was assessed in 2005 and was estimated to be at 80 percent of its unfished biomass in 2005. The OFL of 126 mt is based on the 2005 assessment with a harvest rate proxy of $F_{50\%}$. The ABC of 120 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. 2 mt is deducted from the ACL for the incidental open access fishery, resulting in a fishery HG of 118 mt.

j/ Canary rockfish. A canary rockfish stock assessment update was prepared in 2011 and the stock was estimated to be at 24 percent of its unfished biomass coastwide in 2011. The coastwide OFL of 752 mt is based on the new assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 719 mt is a 4 percent reduction from the OFL

(σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 116 mt is based on a rebuilding plan with a target year to rebuild of 2030 and a SPR harvest rate of 88.7 percent. 17.5 mt is deducted from the ACL for the Tribal fishery (9.5 mt), the incidental open access fishery (2 mt), EFP catch (1.5 mt) and research catch (4.5 mt) resulting in a fishery HG of 98.52 mt. Recreational HGs are being specified as follows: Washington recreational 3.1; Oregon recreational 10.8 mt; and California recreational 22.4 mt.

k/ Chilipepper. The coastwide chilipepper stock was assessed in 2007 and estimated to be at 70 percent of its unfished biomass coastwide in 2006. Chilipepper are managed with stock-specific harvest specifications south of 40°10 N. lat. and within the minor shelf rockfish complex north of 40°10' N. lat. Projected OFLs are stratified north and south of 40°10' N. latitude based on the average 1998-2008 assessed area catch, which is 93 percent for the area south of 40°10' N. latitude and 7 percent for the area north of 40°10' N. latitude. South of 40°10' N. lat., the OFL of 1,768 mt is based on the 2007 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,690 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL was set equal to the ABC. 224 mt is deducted from the ACL for the incidental open access fishery (5 mt), EFP fishing (210 mt), and research catch (9 mt), resulting in a fishery HG of 1,466 mt.

l/ Cowcod. A stock assessment update prepared in 2009 estimated the stock to be 5 percent of its unfished biomass in 2009. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10' N. lat. OFL of 11 mt. The ABC for the area south of 40°10' N. lat. is 9 mt. The assessed portion of the stock in the Conception Area was considered category 2, with a Conception Area contribution to the ABC of 5 mt, which is a 17 percent reduction from the OFL (σ=0.72/P*=0.40). The unassessed portion of the stock in the Monterey area was considered a category 3 stock, with a contribution to the ABC of 3 mt, which is a 31 percent reduction from the OFL (σ=1.44/P*=0.40). A single ACL of 3 mt is being set for both areas combined. The ACL of 3 mt is based on a rebuilding plan with a target year to rebuild of 2068 and an SPR rate of 82.7 percent. 0.1 mt is deducted from the ACL for the amount anticipated to be taken during research activity (0.1 mt) and EFP catch (0.03 mt) which results in a fishery HG of 2.9 mt.

m/ Darkblotched rockfish. A stock assessment update was prepared in 2011, and the stock was estimated to be at 30.2 percent of its unfished biomass in 2011. The OFL is projected to be 541 mt and is based on the 2011 stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 517 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 317 mt is based on a rebuilding plan with a target year to rebuild of 2025 and an SPR harvest rate of 64.9 percent. 20.8 mt is deducted from the ACL for the Tribal fishery (0.1 mt), the incidental open access fishery (18.4 mt), EFP catch (0.2 mt) and research catch (2.1 mt), resulting in a fishery HG of 296.2 mt.

n/ Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 92,955 mt is based on the results of the 2011 stock assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 88,865 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{25\%}$ coastwide, the ACL could be set equal to the ABC. However, the ACL of 25,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,590 mt is deducted from the ACL for the Tribal fishery (1,497 mt), the incidental open access fishery (55 mt) and research catch (38 mt), resulting in a fishery HG of 23,410 mt.

o/ English sole. A stock assessment update was prepared in 2007. The stock was estimated to be at 116 percent of its unfished biomass in 2007. The OFL of 7,129 mt is based on the results of the 2007 assessment update with an F_{MSY} proxy of $F_{30\%}$. The ABC of 6,815 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. 103 mt is deducted from the ACL for the Tribal fishery (91 mt), the incidental open access fishery (7 mt) and research catch (5 mt), resulting in a fishery HG of 6,712 mt.

p/ Lingcod north. A lingcod stock assessment was prepared in 2009. The lingcod biomass off Washington and Oregon was estimated to be at 62 percent of its unfished biomass in 2009. The OFL of 3,334 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 3,036 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) for the area north of 42° N. lat. as it's a category 1 stock, and a 17 percent reduction from the OFL (σ=0.72/P*=0.40) for the area between 42° N. lat. and 40°10'N. lat. as it's a category 2 stock. The ACL was set equal to the ABC. 277.67 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt) and research catch (11.67 mt), resulting in a fishery HG of 2,758 mt.

q/ Lingcod south . A lingcod stock assessment was prepared in 2009. The lingcod biomass off California was estimated to be at 74 percent of its unfished biomass in 2009. The OFL of 1,334 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 1,111 mt was based on a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a

category 2 stock. The ACL was set equal to the ABC. 9 mt is deducted from the ACL for the incidental open access fishery (7 mt) and EFP fishing (2 mt), resulting in a fishery HG of 1,102 mt.

r/ Longnose skate. A stock assessment was prepared in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,902 mt is based on the 2007 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,774 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock. 72.18 mt is deducted from the ACL for the Tribal fishery (56 mt), incidental open access fishery (3 mt), and research catch (13.18 mt), resulting in a fishery HG of 1,928 mt.

s/ Longspine thornyhead. A coastwide stock assessment was conducted in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. A coastwide OFL of 3,391 mt is based on the 2005 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 2,825 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27' N. lat., the ACL is 2,009 mt, and is 79 percent of the coastwide OFL for the biomass found in that area reduced by an additional 25 percent as a precautionary adjustment. 46 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (3 mt), and research catch (13 mt) resulting in a fishery HG of 1,963 mt. For that portion of the stock south of 34°27' N. lat. the ACL is 356 mt and is 21 percent of the coastwide OFL reduced by 50 percent as a precautionary adjustment. 3 mt is deducted from the ACL for the incidental open access fishery (2 mt), and research catch (1 mt) resulting in a fishery HG of 353 mt.

t/ Minor nearshore rockfish north. The OFL of 110 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (blue rockfish in California) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 94 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the complex ABC. There are no deductions from the ACL, thus the fishery HG is equal to the ACL at 94 mt.

u/ Minor shelf rockfish north. The OFL of 2,183 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (greenspotted rockfish between 40°10' to 42° N. lat. and greenstriped rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,920 mt is the summed contribution of the ABCs for the component species. The ACL of 968 mt is the same as the 2012 ACL. 65.24 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt) and research catch (6.24 mt) resulting in a fishery HG of 903 mt.

v/ Minor slope rockfish north. The OFL of 1,518 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the northern minor slope rockfish complex is based on a sigma value of 0.36 for category 1 stocks (splitnose rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,381 mt is the summed contribution of the ABCs for the component species. The ACL of 1,160 is the same as the 2012 ACL. 62 mt is deducted from the ACL for the Tribal fishery (36 mt), the incidental open access fishery (19 mt), EFP catch (1 mt) and research catch (6 mt), resulting in a fishery HG of 1,098 mt.

w/ Minor nearshore rockfish south. The OFL of 1,164 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern minor nearshore rockfish complex is based on a sigma value of 0.36 for category 1 stocks (gopher rockfish north of 34°27' N. lat.), 0.72 for category 2 stocks (blue rockfish north of 34°27' N. lat.) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting minor nearshore rockfish south ABC, which is the summed contribution of the ABCs for the component species within the complex, is 1,005 mt. The ACL is 990 mt; the same as the 2012 ACL. There are no deductions from the ACL, resulting in a fishery HG of 990 mt. Blue rockfish south of 42° N. latitude has a species-specific HG of 236 mt.

x/ Minor shelf rockfish south. The OFL of 1,910 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the southern minor shelf rockfish complex is based on a sigma value of 0.72 for category 2 stocks (greenspotted and greenstriped rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,617 mt is the summed contribution of the ABCs for the component species. The ACL of 714 mt is the same as the 2012 ACL. 46 mt is deducted from the ACL for the incidental open access fishery (9 mt), EFP catch (31 mt) and research catch (6 mt), resulting in a fishery HG of 668 mt.

y/ Minor slope rockfish south. The OFL of 681 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern minor slope rockfish complex is based on a sigma value of 0.72 for category 2 stocks (bank and blackgill rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 618 mt is the summed contribution of the ABCs for the component species. The ACL is equal to the ABC. 21 mt is deducted from the ACL for the incidental open access fishery (17 mt), EFP catch (2 mt) and research catch (2 mt), resulting in a fishery HG of 597 mt. Blackgill rockfish has species-specific HGs: 26.4 mt for the limited entry fixed gear fishery; 17.6 mt for the open access fishery.

z/ "Other fish" is composed entirely of groundfish FMP species that are neither rockfish (family Scorpaenidae) nor flatfish, and most of these species are unassessed, with the exception of spiny dogfish, which was assessed in 2011 and is a category 2 stock. The OFL of 6,832 mt is the sum of the OFL contributions for the component species within the complex. The OFL contribution for spiny dogfish is projected from the 2011 assessment using an $F_{45\%}$ F_{MSY} proxy harvest rate. The ABC of 4,717 mt is calculated by applying a P* of 0.40 and a sigma of 1.44 to the OFLs calculated for the category 3 stocks (i.e., all stocks other than spiny dogfish) and a P* of 0.30 and a sigma of 0.72 to the OFL calculated for spiny dogfish. The resulting ABC for the complex is the summed contribution of the ABCs calculated for the component stocks. The ACL is set equal to the ABC. 177 mt is deducted from the ACL for the Tribal fishery (112 mt), the incidental open access fishery (50 mt), EFP catch (3 mt) and research catch (12 mt), resulting in an "other fish" fishery HG of 4,540 mt.

aa/ "Other flatfish" are the unassessed flatfish species that do not have individual OFLs/ABCs/ACLs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, and sand sole. The other flatfish OFL of 10,060 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 6,982 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as the complex is composed of category 3 stocks. The ACL of 4,884 mt is the 2011 and 2012 ACL carried forward as there have been no significant changes in the status or management of stocks within the complex. 202 mt is deducted from the ACL for the Tribal fishery (60 mt), the incidental open access fishery (125 mt), and research catch (17 mt), resulting in a fishery HG of 4,682 mt.

bb/ Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as it's a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 409.04 mt is deducted from the ACL for the Tribal fishery (400 mt), research fishing (7.04 mt), and the incidental open access fishery (2.0 mt), resulting in a fishery HG of 1,191 mt.

cc/ Pacific Ocean Perch (POP). A POP stock assessment was prepared in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 844 mt for the area north of 40°10' N. lat. is based on the 2011 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 807 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 150 mt is based on a rebuilding plan with a target year to rebuild of 2051 and an SPR harvest rate of 86.4 percent. 16.5 mt is deducted from the ACL for the Tribal fishery (10.9 mt), open access fishery (0.4 mt) and research catch (5.2 mt), resulting in a fishery HG of 133.5 mt.

dd/ Pacific whiting. The most recent stock assessment was prepared in January 2013. The 2013 Fishery Harvest Guideline (Fishery HG) is calculated as follows. U.S. TAC of 269,745 mt minus 63,205 mt for the Tribal allocation minus 2,500 mt for catch in research activities and as non-groundfish bycatch, resulting in a fishery harvest guideline of 204,040 mt. The TAC for Pacific whiting is established under the provisions of the Pacific Hake/Whiting Agreement with Canada and the Pacific Whiting Act of 2006, 16 U.S.C. 7001-7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting. The 2013 OFL of 626,364 mt is based on the 2013 assessment with an $F_{40\%}$ F_{MSY} proxy.

ee/ Petrale sole. A petrale sole stock assessment was prepared for 2011. In 2011 the petrale sole stock was estimated to be at 18 percent of its unfished biomass. The OFL of 2,711 mt is based on the 2011 assessment with an $F_{30\%}$ F_{MSY} proxy. The ABC of 2,592 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC. 234 mt is deducted from the ACL for the Tribal fishery (220 mt), the incidental open access fishery (2.4 mt), and research catch (11.6 mt), resulting in a fishery HG of 2,358 mt.

ff/ Sablefish north. A coastwide sablefish stock assessment was prepared in 2011. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2011. The coastwide OFL of 6,621 mt is based on the 2011 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The coastwide ABC of 6,045 mt is an 8.7 percent reduction from the OFL (σ=0.36/P*=0.40). The 40-10 harvest policy was applied to the ABC to derive a coastwide ACL value. Then the ACL value was apportioned, north and south of 36° N. lat., using the average of annual swept area biomass (2003-2010) from the NMFS NWFSC trawl survey, between the northern and southern areas with 73.6 percent going to the area north of 36° N. lat. and 26.4 percent going to the area south of 36° N. lat. The northern ACL is 4,012 mt and is reduced by 401 mt for the tribal allocation (10 percent of the ACL north of 36° N. lat.). The 401 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

gg/ Sablefish south. The ACL for the area south of 36° N. lat. is 1,439 mt (26.4 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL for the incidental open access fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,434 mt.

hh/ Shortbelly rockfish. A non-quantitative assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated at 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt was recommended for the stock in 2013 with an ABC of 5,789 mt (σ=0.72 with a P* of 0.40). The 50 mt ACL is slightly

higher than recent landings and is in recognition of the stock's importance as a forage species in the California Current ecosystem. 2 mt is deducted from the ACL for research catch, resulting in a fishery HG of 48 mt.

ii/ Shortspine thornyhead. A coastwide stock assessment was conducted in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. A coastwide OFL of 2,333 mt is based on the 2005 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,230 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. For the portion of the stock that is north of 34°27' N. lat., the ACL is 1,540 mt. The northern ACL is 66 percent of the coastwide OFL for the portion of the biomass found north of 34°27' N. lat. 59.22 mt is deducted from the ACL for the Tribal fishery (50 mt), the incidental open access fishery (2 mt), and research catch (7.22 mt) resulting in a fishery HG of 1,481 mt for the area north of 34°27' N. lat. For that portion of the stock south of 34°27' N. lat., the ACL is 397 mt which is 34 percent of the coastwide OFL for the portion of the biomass found south of 34°27' N. lat. reduced by 50 percent as a precautionary adjustment. 42 mt is deducted from the ACL for the incidental open access fishery (41 mt), and research catch (1 mt), resulting in a fishery HG of 355 mt for the area south of 34°27' N. lat.

jj/ Splitnose rockfish. A coastwide assessment was prepared in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose in the north is managed under the minor slope rockfish complex and with species-specific harvest specifications south of 40°10' N. lat. The OFLs were apportioned north and south based on the average 1916-2008 assessed area catch resulting in 64.2 percent stock-specific OFL south of 40°10' N. lat, and 35.8 percent for the contribution of splitnose rockfish to the northern minor slope rockfish complex OFL. South of 40°10 N. lat., the OFL of 1,684 mt is based on the 2009 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,610 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL is set equal to the ABC. 12 mt is deducted from the ACL for research catch (9 mt) and EFP catch (3 mt), resulting in a fishery HG of 1,598 mt.

kk/ Starry Flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. For 2013, the coastwide OFL of 1,825 mt is based on the 2005 assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,520 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. 7 mt is deducted from the ACL for the Tribal fishery (2 mt)and the incidental open access fishery (5 mt), resulting in a fishery HG of 1,513 mt.

ll/ Widow rockfish. The stock was assessed in 2011 and was estimated to be at 51.1 percent of its unfished biomass in 2011. The OFL of 4,841 mt is based on the 2011 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 4,598 mt is a 5 percent reduction from the OFL (σ=0.41/P*=0.45). A unique sigma of 0.41 was calculated for widow rockfish since the estimated variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. A constant catch strategy will be used with an ACL of 1,500 mt. 89.2 mt is deducted from the ACL for the Tribal fishery (60 mt), the incidental open access fishery (89.2 mt), EFP catch (18 mt) and research catch (7.9 mt), resulting in a fishery HG of 1,411 mt.

mm/ Yelloweye rockfish. A stock assessment update was prepared in 2011. The stock was estimated to be at 21.3 percent of its unfished biomass in 2011. The 51 mt coastwide OFL was derived from the base model in the new stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 43 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 18 mt ACL is based on a rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 5.82 mt is deducted from the ACL for the Tribal fishery (2.3 mt), the incidental open access fishery (0.2 mt), EFP catch (0.02 mt) and research catch (3.3 mt) resulting in a fishery HG of 12.2 mt. Recreational HGs are being established: Washington, 2.9; Oregon, 2.6 mt; and California, 3.4 mt.

nn/ Yellowtail rockfish. A yellowtail rockfish stock assessment update was last prepared in 2005 for the area north of 40°10' N. latitude to the U.S-Canadian border. Yellowtail rockfish was estimated to be at 55 percent of its unfished biomass in 2005. The OFL of 4,579 mt is based on the 2005 stock assessment with the F_{MSY} proxy of $F_{50\%}$. The ABC of 4,378 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL was set equal to the ABC, because the stock is above $B_{40\%}$. 701.49 mt is deducted from the ACL for the Tribal fishery (677 mt), the incidental open access fishery (3 mt), EFP catch (10 mt) and research catch (11.49 mt), resulting in a fishery HG of 3,677 mt.

* * * * *

■ 4. In § 660.140, paragraph (d)(1)(ii)(D) is revised to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(D) For the trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

SHOREBASED TRAWL ALLOCATIONS

IFQ Species	Management area	2013 Shorebased trawl allocation (mt)	2014 Shorebased trawl allocation (mt)
Arrowtooth flounder		3,846.13	3,467.08
BOCACCIO	South of 40°10′ N. lat.	74.90	79.00
CANARY ROCKFISH		39.90	41.10
Chilipepper	South of 40°10′ N. lat.	1,099.50	1,067.25
COWCOD	South of 40°10′ N. lat.	1.00	1.00
DARKBLOTCHED ROCKFISH		266.70	278.41
Dover sole		22,234.50	22,234.50
English sole		6,365.03	5,255.59
Lingcod	North of 40°10′ N. lat.	1,222.57	1,151.68
Lingcod	South of 40°10′ N. lat.	494.41	472.88
Longspine thornyhead	North of 34°27′ N. lat.	1,859.85	1,811.40
Minor shelf rockfish complex	North of 40°10′ N. lat.	508.00	508.00
Minor shelf rockfish complex	South of 40°10′ N. lat.	81.00	81.00
Minor slope rockfish complex	North of 40°10′ N. lat.	776.93	776.93
Minor slope rockfish complex	South of 40°10′ N. lat.	376.11	378.63
Other flatfish complex		4,189.61	4,189.61
Pacific cod		1,125.29	1,125.29
PACIFIC OCEAN PERCH	North of 40°10′ N. lat.	109.43	112.28
Pacific Whiting		85,697	.....
PETRALE SOLE		2,318.00	2,378.00
Sablefish	North of 36° N. lat.	1,828.00	1,988.00
Sablefish	South of 36° N. lat.	602.28	653.10
Shortspine thornyhead	North of 34°27′ N. lat.	1,385.35	1,371.12
Shortspine thornyhead	South of 34°27′ N. lat.	50.00	50.00
Splitnose rockfish	South of 40°10′ N. lat.	1,518.10	1,575.10
Starry flounder		751.50	755.50
Widow rockfish		993.83	993.83
YELLOWEYE ROCKFISH		1.00	1.00
Yellowtail rockfish	North of 40°10′ N. lat.	2,635.33	2,638.85

* * * * *

[FR Doc. 2013–10806 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 78, No. 88
Tuesday, May 7, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2011–0019]

RIN 0579–AD46

Importation of Jackfruit, Pineapple, and Starfruit From Malaysia Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation of fresh jackfruit, pineapple, and starfruit from Malaysia into the continental United States. As a condition of entry, all three commodities would have to be irradiated for insect pests, inspected, and imported in commercial consignments. There would also be additional, commodity-specific requirements for other pests associated with jackfruit, pineapple, and starfruit from Malaysia. This action would provide for the importation of jackfruit, pineapple, and starfruit from Malaysia while continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before July 8, 2013.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0019-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0019, 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-2011-0019* 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: Mr. Juan A. (Tony) Román, Import Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2242.

SUPPLEMENTARY INFORMATION

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–58, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests.

The regulations currently do not authorize the importation of fresh jackfruit (*Artocarpus heterophyllus* Lam.), pineapple (*Ananas comosus* (L.) Merr.), or starfruit (*Averrhoa carambola* L.) from Malaysia.

The national plant protection organization (NPPO) of Malaysia has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh jackfruit, pineapple, and starfruit from Malaysia to be imported into the continental United States.

As part of our evaluation of Malaysia's request, we have prepared pest lists identifying those quarantine pests likely to follow the pathway of jackfruit, pineapple, and starfruit imported from Malaysia. These pest lists may be obtained by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

The pest list for jackfruit from Malaysia identifies the following plant pests as likely to follow the pathway of the fruit:

- *Bactrocera albistrigata* (de Meijere), white striped fruit fly.
- *B. carambolae* Drew and Hancock, carambola fruit fly.
- *B. cucurbitae* Coquilett, melon fruit fly.
- *B. frauenfeldi,* mango fruit fly.
- *B. papayae* Drew and Hancock, Asian papaya fruit fly.
- *B. tau* Walker, a fruit fly.
- *B. umbrosa* Fabricius, jackfruit fruit fly.
- *Cerogria anisocera* Wied., a beetle.
- *Ceroplastes rubens* Maskell, a scale.
- *Coccotrypes gedeanus* Eggers, a bark beetle.
- *C. medius* Eggers, a bark beetle.
- *Coccus formicarii* (Green), a scale.
- *Conogethes punctiferalis* (Gueneé), yellow peach moth.
- *Dysmicoccus neobrevipes* Beardsley, gray pineapple mealybug.
- *Exallomochlus hispidus* (Morrison), cocoa mealybug.
- *Glyphodes caesalis* Walker, jackfruit borer.
- *Neosaisettia laos* (Takahashi), a scale.
- *Nipaecoccus viridis* (Newstead), karoo thorn mealybug.
- *Phytophthora meadii* McRae, a phytopathogenic fungus.
- *Planococcus lilacinus* Cock, cacao mealybug.
- *P. minor* Maskell, passionvine mealybug.
- *Rastrococcus iceryodes* (Green, 1908), Icerya mealybug.
- *R. invadens* Williams, mango mealybug.
- *R. spinosus* Robinson, Philippine mango mealybug.

The pest list for pineapple from Malaysia identifies the following plant pests as likely to follow the pathway of the fruit:

- *Achatina fulica,* giant African land snail.
- *Adoretus sinicus,* Chinese rose beetle.
- *C. viridis,* green scale.
- *Darna trima,* a nettle caterpillar.
- *D. neobrevipes* Beardsley, gray pineapple mealybug.
- *Eutetranychus orientalis,* red spider mite.
- *Gliomastix luzulae,* a phytopathogenic fungus.
- *Glycyphana sinuata,* a scarab.
- *Leptocorsica acuta,* slender rice bug.
- *Maconellicoccus hirsutus,* a mealybug.
- *Marasmiellus scandens,* a phytopathogenic fungus.
- *Marasmius crinis-equi,* horsehair fungus.

- *M. palmivorus,* a phytopathogenic fungus.
- *Melanitis leda,* evening brown butterfly.
- *Parasa lepida,* blue-striped nettle grub.
- *P. minor* Maskell, passionvine mealybug.
- *Prillieuxina stuhlmannii,* a phytopathogenic fungus.
- *Rhabdoscelus obscurus,* New Guinea sugarcane weevil.
- *Setothosea asigna,* a nettle caterpillar.
- *Spodoptera litura,* Oriental leafworm moth.
- *Stephanitis typica,* lacebug.
- *Thrips flavus,* rose thrips.

The pest list for starfruit from Malaysia identifies the following plant pests as likely to follow the pathway of the fruit:

- *B. carambolae* Drew and Hancock, carambola fruit fly.
- *B. cucurbitae* Coquilett, melon fruit fly.
- *B. latifrons,* Malaysian fruit fly.
- *B. occipitalis,* a fruit fly.
- *B. papayae* Drew and Hancock, Asian papaya fruit fly.
- *C. punctiferalis* (Gueneé), yellow peach moth.
- *Cryptophlebia encarpa,* Cacao husk borer.[1]
- *Cryptophlebia* spp., macademia nut borer.
- *D. neobrevipes* Beardsley, gray pineapple mealybug.
- *M. hirsutus,* a mealybug.
- *Phoma averrhoae,* a phytopathogenic fungus.
- *P. lilacinus,* cacao mealybug.
- *P. minor* Maskell, passionvine mealybug.
- *Pseudococcus aurantiacus,* a mealybug.

(Since these pest lists were completed, we have decided that *P. minor* Maskell and *C. viridis* should no longer be considered to be plant pests of quarantine significance. Information regarding this decision is available by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**). We have determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by these plant pests. Accordingly, we have prepared a risk management document (RMD), titled ''Importation of Fresh Fruits of Jackfruit (*Artocarpus heterophyllus*), Pineapple (*Ananas comosus*), and Starfruit (*Averrhoa carambola*) with Stems, from Malaysia into the Continental United States'' (June 2012), to aid in determining the specific measures necessary to mitigate these quarantine pest risks. Copies of the RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site.

Based on the recommendations of the RMD, we are proposing to authorize the importation of jackfruit (with stems less than 5 centimeters in length), pineapple, and starfruit from Malaysia into the continental United States, provided they are produced and shipped in accordance with general and commodity-specific mitigation measures. We are proposing to add these measures to the regulations in a new § 319.56–59 governing the importation of jackfruit, pineapple, and starfruit from Malaysia into the continental United States.

Systems Approaches

General Requirements

Proposed paragraph (a) of § 319.56–59 would contain general requirements that would apply to the importation of jackfruit, pineapple, or starfruit from Malaysia into the continental United States.

Proposed paragraph (a)(1) of § 319.56–59 would require jackfruit, pineapple, and starfruit from Malaysia to be treated for plant pests with irradiation in accordance with 7 CFR part 305. Within part 305, § 305.9 provides that irradiation of imported fruits and vegetables for which irradiation is a required treatment must occur at APHIS-certified facilities located within or outside of the United States. It further provides that approved irradiation treatment schedules for these fruits and vegetables are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual, found online at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf.* The manual specifies that treatment schedule T105-a-2, irradiation at a dosage of 400 gray, is efficacious in neutralizing all quarantine pests that are members of the class Insecta, except pupae or adults of the order Lepidoptera.

Twenty-one of the 24 pests considered likely to follow the pathway of jackfruit from Malaysia belong to the class Insecta, and do not belong to the order Lepidoptera. Two of the remaining three pests, *Conogethes punctiferalis* and *Glyphodes caesalis,* belong to the order Lepidoptera, but are not considered likely to pupate inside jackfruit or follow the pathway of jackfruit as adults. Hence, treatment according to this irradiation schedule would neutralize 23 of the 24 pests considered likely to follow the pathway of jackfruit from Malaysia.

Mitigation measures for the one pest that would not be mitigated by such irradiation treatment, *Phytophthora meadii* McRae, are discussed later in this document, in the section titled ''Additional Requirements for Jackfruit from Malaysia.''

Fifteen of the 22 pests considered likely to follow the pathway of pineapple from Malaysia belong to the class Insecta. Of these, five belong to the order Lepidoptera; however, none of these five pests are known to pupate in pineapple or are likely to follow the pathway as adults. Hence, treatment according to treatment schedule T105-a-2 would neutralize all 15 insect pests likely to follow the pathway of pineapple from Malaysia.

Mitigation measures for the remaining seven pests are discussed later in this document, in the section titled ''Additional Requirements for Pineapple from Malaysia.''

Thirteen of the 14 pests considered likely to follow the pathway of starfruit from Malaysia belong to the class Insecta. Of these, three belong to the order Lepidoptera. One of these three pests, *C. punctiferalis,* is not known to pupate in starfruit and is unlikely to follow the pathway as an adult. Hence, treatment according to treatment schedule T105-a-2 would neutralize 11 of the pests considered likely to follow the pathway of starfruit from Malaysia.

Another, *Cryptophlebia encarpa,* may pupate within starfruit and follow the pathway, but can only survive in plant hardiness zones 12 and 13, which are not found in the continental United States.[2] Thus, this pest is highly unlikely to become established in the continental United States, if introduced.

Mitigation measures for the remaining two pests likely to follow the pathway of starfruit from Malaysia, *Cryptophlebia* spp. and *Phoma averrhoae,* are discussed later in this document, in the section titled ''Additional Requirements for Starfruit from Malaysia.''

Paragraph (a)(2) would require jackfruit, pineapple, and starfruit from Malaysia to be imported in commercial consignments only. Historically, produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestation because the

[1] The pest list considers *Cryptophlebia encarpa* to be distinct from other species of *Cryptophlebia* because, unlike other *Cryptophlebia* species, it is highly unlikely to become established in the continental United States. We discuss this matter at greater length below.

[2] To view a map of the plant hardiness zones, go to *http://planthardiness.ars.usda.gov/PHZMWeb/.*

commodity is often ripe to overripe and is often grown with little to no pest control. Commercial consignments, as defined within the regulations, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Additional Requirements for Jackfruit From Malaysia

As we mentioned above, irradiation according to treatment schedule T105-a-2 is effective in neutralizing 23 of the 24 pests considered likely to follow the pathway of jackfruit from Malaysia. There would, however, be one pest, *P. meadii,* a phytopathogenic fungus, for which irradiation is not an approved treatment. Accordingly, proposed paragraph (b) of § 319.56–59 would set forth additional conditions for the importation of jackfruit from Malaysia to mitigate the risk associated with *P. meadii.*

Proposed paragraph (b)(1) would require that, if the jackfruit has stems, these stems are less than 5 cm in length. One would not expect to find commercially produced jackfruit with stems that are 5 cm in length or greater; hence the pest list for jackfruit only evaluated jackfruit with stems that are less than 5 cm in length. Accordingly, there may be additional pests of quarantine significance that would follow the pathway on imported jackfruit from Malaysia if the jackfruit has stems that are 5 cm in length or greater.

Proposed paragraph (b)(2) would specify that the jackfruit would have to originate from an orchard that was treated during the growing season with a fungicide approved by APHIS for *P. meadii,* and the fruit would have to be inspected by the NPPO of Malaysia prior to harvest and found free of this pest. Alternatively, the jackfruit would have to be treated after harvest with a fungicidal dip approved by APHIS for *P. meadii.* Several copper-based fungicides have been demonstrated to kill *P. meadii,* and APHIS is currently evaluating studies that suggest a combination of copper and the fungicides metalaxyl and mancozeb is similarly efficacious. To that end, if this rule is finalized, APHIS would collaborate with the NPPO of Malaysia to ensure that Malaysian jackfruit producers are provided with a continually updated list of all APHIS-approved fungicides for *P. meadii.*

Proposed paragraph (b)(3) would require each consignment of jackfruit imported from Malaysia into the continental United States to be accompanied by a phytosanitary certificate issued by the NPPO of Malaysia. The phytosanitary certificate would need to have an additional declaration indicating that the jackfruit has been subject to one of the mitigations for *P. meadii* set forth in proposed paragraph (b)(2) and has been inspected prior to shipment and found free of *P. meadii.* (The inspection would provide added assurance that the jackfruit is free from *P. meadii.*) Additionally, if the jackfruit has been irradiated in Malaysia, the phytosanitary certificate would have to have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305. Alternatively, the irradiation treatment may take place in the continental United States as provided in § 305.9.

Additional Requirements for Pineapple From Malaysia

As we mentioned above, irradiation according to treatment schedule T105-a-2 is effective in neutralizing 15 of the 22 pests considered likely to follow the pathway of pineapple from Malaysia. It is not approved to mitigate the following pests:

- *Achatina fulica,* giant African land snail.
- *Eutetranychus orientalis,* red spider mite.
- *Gliomastix luzulae,* a phytopathogenic fungus.
- *Marasmiellus scandens,* a phytopathogenic fungus.
- *Marasmius crinis-equi,* horsehair fungus.
- *M. palmivorus,* a phytopathogenic fungus.
- *Prillieuxina stuhlmannii,* a phytopathogenic fungus.

Accordingly, proposed paragraph (c) of § 319.56–59 would set forth additional requirements for the importation of pineapple from Malaysia into the continental United States that are necessary to mitigate the risk associated with these quarantine pests.

Proposed paragraph (c)(1) would require the pineapple to originate from an orchard that was treated during the growing season with a fungicide approved by APHIS for *G. luzulae, M. scandens, M. crinis-equi, M. palmivorus,* and *P. stuhlmannii,* and the fruit would have to be inspected by the NPPO of Malaysia prior to harvest and found free of quarantine pests. Alternatively, the pineapple would have to be treated after harvest with a fungicidal dip approved by APHIS for these fungi. A number of broad-spectrum fungicides for pineapples have demonstrated efficacy in killing these five fungi.

Proposed paragraph (c)(2) would require the pineapple to be sprayed after harvest but prior to packing with water from a high-pressure nozzle or with compressed air so that all *A. fulica* and *E. orientalis* are removed from the surface of the pineapple. This will effectively remove *A. fulica* and *E. orientalis,* as both are external feeders.

Proposed paragraph (c)(3) would require each consignment of pineapple imported from Malaysia into the continental United States to be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the pineapple has been subject to one of the mitigations for *G. luzulae, M. scandens, M. crinis-equi, M. palmivorus,* and *P. stuhlmannii* set forth in proposed paragraph (c)(1), has been treated for *A. fulica* and *E. orientalis* in accordance with proposed paragraph (c)(2), and has been inspected prior to shipment and found free of those pests. Additionally, if the pineapple has been irradiated in Malaysia, the phytosanitary certificate would have to have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305. Alternatively, the irradiation treatment may take place in the continental United States as provided in § 305.9.

Additional Requirements for Starfruit From Malaysia

As we mentioned above, irradiation according to treatment schedule T105-a-2 is effective in neutralizing 11 of the 14 pests considered likely to follow the pathway of starfruit from Malaysia imported into the United States. It is not approved to mitigate the following pests:

- Pupae of other *Cryptophlebia* spp.
- *Phoma averrhoae,* a phytopathogenic fungus.

Thus, proposed paragraph (d) of § 319.56–59 would set forth additional requirements for the importation of starfruit from Malaysia into the continental United States that are necessary to mitigate the risk associated with *Cryptophlebia* spp. and *Phoma averrhoae.*

Paragraph (d)(1) would require that, before shipment, each consignment of starfruit would have to be inspected by the NPPO of Malaysia using a sampling method agreed upon by APHIS and the NPPO of Malaysia. As part of this method, a sample would have to be obtained from each lot, inspected by the

NPPO of Malaysia, and found free from *P. averrhoae.* The fruit in the sample would then have to be cut open, inspected, and found free from pupae of *Cryptophlebia* spp.

P. averrhoae causes symptoms that are readily detectable during visual inspection. These include sunken, black lesions and, in advanced stages, pycnidia, or flowering, spore-filled masses that erupt from the surface of the fruit. Moreover, while *P. averrhoae* does have a latency period, this period usually ends once fruit becomes ripe. Hence we consider visual inspection sufficient to mitigate for this pest.

In contrast, at least one species of *Cryptophlebia, C. peltasica,* is known to pupate within fruit. While there is no evidence that this is true of other species of *Cryptophlebia,* scientific evidence does not yet exist that would rule out such pupation. Hence we would require starfruit from Malaysia destined for export to the United States to be cut open and visually inspected for pupae of *Cryptophlebia* spp.

Paragraph (d)(2) would require each consignment of starfruit imported from Malaysia into the continental United States to be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the starfruit has been inspected prior to shipment and found free of *P. averrhoae* and pupae of *Cryptophlebia* spp. Additionally, if the starfruit has been irradiated in Malaysia, the phytosanitary certificate would have to have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305. Alternatively, the irradiation treatment may take place in the continental United States as provided in § 305.9.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

APHIS proposes to allow imports from Malaysia of fresh pineapple, jackfruit, and starfruit with stems into the continental United States under certain phytosanitary conditions. This action is undertaken in response to a request from the Government of Malaysia. Data on U.S. production and trade of jackfruit or starfruit are not available. The latest available data on U.S. fresh pineapple production is for 2006, when 99,000 metric tons were sold by Hawaiian producers. By comparison, fresh pineapple imports by the United States doubled between 2002 and 2010, from 406,000 to 809,000 metric tons, with Costa Rica as the principal source.

Malaysian producers expect to export to the United States about 2,500 metric tons of fresh pineapple (equivalent to 0.3 percent of U.S. imports in 2010), 1,500 metric tons of fresh jackfruit, and 3,000 metric tons of fresh starfruit. Importers and wholesalers that may be affected by the proposed rule are predominantly small entities. Small-scale Hawaiian producers of fresh pineapple, jackfruit, and starfruit mainly market to consumers within that State and are not expected to be significantly affected by the importation of these fruits into the continental United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow jackfruit, pineapple, and starfruit to be imported into the continental United States from Malaysia. If this proposed rule is adopted, State and local laws and regulations regarding jackfruit, pineapple, and starfruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh jackfruit, pineapple, and starfruit are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2011–0019. Please send a copy of your comments to: (1) Docket No. APHIS–2011–0019, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, Room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are proposing to amend the fruits and vegetables regulations to allow the importation of jackfruit, pineapple, and starfruit from Malaysia into the continental United States. As conditions for entry of all three commodities, they would have to be irradiated at a minimal dosage of 400 gray, inspected, and imported in commercial consignments. There would also be additional, commodity-specific requirements for jackfruit, pineapple, and starfruit from Malaysia.

Implementation of this proposed rule would require persons to fill out phytosanitary certificates with additional declarations.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: The NPPO of Malaysia.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 85.

Estimated annual number of responses: 85.

Estimated total annual burden on respondents: 85 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance 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. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

Lists of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are proposing to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. A new § 319.56–59 is added to read as follows:

§ 319.56–59 Jackfruit, pineapple, and starfruit from Malaysia.

Fresh jackfruit (*Artocarpus heterophyllus* Lam.), pineapple (*Ananas comosus* (L.) Merr.), and starfruit (*Averrhoa carambola* L.) may be imported into the continental United States from Malaysia only under the conditions described in this section.

(a) *General requirements for jackfruit, pineapple, and starfruit from Malaysia.* (1) Jackfruit, pineapple, and starfruit from Malaysia must be treated for plant pests with irradiation in accordance with part 305 of this chapter.

(2) Jackfruit, pineapple, and starfruit from Malaysia may be imported in commercial consignments only.

(b) *Additional requirements for jackfruit from Malaysia.* (1) If the jackfruit has stems, these stems must be less than 5 cm in length.

(2)(i) The jackfruit must originate from an orchard that was treated during the growing season with a fungicide approved by APHIS for *Phytophthora meadii,* and the fruit must be inspected by the national plant protection organization (NPPO) of Malaysia prior to harvest and found free of this pest; or

(ii) The jackfruit must be treated after harvest with a fungicidal dip approved by APHIS for *P. meadii.*

(3) Each consignment of jackfruit imported from Malaysia into the continental United States must be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the jackfruit has been subject to one of the mitigations for *P. meadii* in paragraph (b)(2) of this section and has been inspected prior to shipment and found free of *P. meadii.* Additionally, if the jackfruit has been irradiated in Malaysia, the phytosanitary certificate must have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305.

(c) *Additional requirements for pineapple from Malaysia.* (1)(i) The pineapple must originate from an orchard that was treated during the growing season with a fungicide approved by APHIS for *Gliomastix luzulae, Marasmiellus scandens, Marasmius crinis-equi, Marasmius palmivorus,* and *Prillieuxina stuhlmannii,* and the fruit must be inspected by the NPPO of Malaysia prior to harvest and found free of those pests; or

(ii) The pineapple must be treated after harvest with a fungicidal dip approved by APHIS for *G. luzulae, M. scandens, M. crinis-equi, M. palmivorus,* and *P. stuhlmannii.*

(2) The pineapple must be sprayed after harvest but prior to packing with water from a high-pressure nozzle or with compressed air so that all *Achatina fulica* and *Eutetranychus orientalis* are removed from the surface of the pineapple.

(3) Each consignment of pineapple imported from Malaysia into the continental United States must be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the pineapple has been subject to one of the mitigations for *G. luzulae, M. scandens, M. crinis-equi, M. palmivorus,* and *P. stuhlmannii* in paragraph (c)(1) of this section, has been treated for *A. fulica* and *E. orientalis* in accordance with paragraph (c)(2) of this section, and has been inspected prior to shipment and found free of *A. fulica, E. orientalis, G. luzulae, M. scandens, M. crinis-equi, M. palmivorus,* and *P. stuhlmannii.* Additionally, if the pineapple has been irradiated in Malaysia, the phytosanitary certificate must have an additional declaration that the pineapple has been treated with irradiation in accordance with 7 CFR part 305.

(d) *Additional requirements for starfruit from Malaysia.* (1) Before shipment, each consignment of starfruit must be inspected by the NPPO of Malaysia using a sampling method agreed upon by APHIS and the NPPO of Malaysia. As part of this method, a sample must be obtained from each lot, inspected by the NPPO of Malaysia, and found free from *Phoma averrhoae.* The fruit in the sample must then be cut open, inspected, and found free from pupae of *Cryptophlebia* spp.

(2) Each consignment of starfruit imported from Malaysia into the continental United States must be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the starfruit has been inspected prior to shipment and found free of *P. averrhoae* and pupae of *Cryptophlebia* spp. Additionally, if the starfruit has been irradiated in Malaysia, the phytosanitary certificate must have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305.

Done in Washington, DC, this 2nd day of May 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–10826 Filed 5–6–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2013–BT–STD–0006]

RIN 1904–AC55

Energy Efficiency Program for Commercial and Industrial Equipment: Public Meeting and Availability of the Framework Document for Commercial and Industrial Fans and Blowers

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

ACTION: Extension of public comment period.

SUMMARY: The comment period for the notice of public meeting and availability of the Framework Document pertaining to the development of energy conservation standards for commercial and industrial fan and blower equipment published on February 1, 2013, is extended to June 3, 2013.

DATES: The comment period for the notice of public meeting and availability of the Framework Document relating to commercial and industrial fan and blower equipment that published on February 1, 2013, (78 FR 7306) is extended to June 3, 2013.

ADDRESSES: Any comments submitted must identify the framework document for commercial and industrial fans and blowers and provide docket number EERE–2013–BT–STD–0006 and/or RIN number 1904–AC55. Comments may be submitted using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: CIFB2013STD0006@EE.Doe.Gov.* Include EERE–2013–BT–STD–0006 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Framework Document for Commercial and Industrial Fans and Blowers, EERE–2013–BT–STD–0006, 1000 Independence Avenue SW., Washington, DC 20585–0121. Phone: (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Phone: (202) 586–2945. Please submit one signed paper original.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Charles Llenza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2192. Email: *CIFansBlowers@ee.doe.gov.*

In the office of the General Counsel, contact Ms. Francine Pinto, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7432. Email: *Francine.Pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) published a proposed determination that commercial and industrial fans and blowers (fans) meet the definition of covered equipment under the Energy Policy and Conservation Act of 1975, as amended (76 FR 37628, June 28, 2011). As part of its further consideration of this determination, DOE is analyzing potential energy conservation standards for fans. DOE published a notice of public meeting and availability of the framework document to consider such standards (78 FR 7306, Feb. 1, 2013). The framework document requested public comment from interested parties and provided for the submission of comments by March 18, 2013. Thereafter, Air Movement and Control Association International (AMCA), on behalf of itself and its affiliates, requested an extension of the public comment period by 45 days and DOE extended the initial comment period until May 2, 2013. AMCA further requested an additional extension of the public comment period by 30 days. AMCA stated that the additional time is necessary to conduct a rapid and intensive research project in order to provide DOE with better information at an early stage of the regulatory process, making subsequent phases more efficient and effective.

Based on AMCA's request, DOE believes that extending the comment period to allow additional time for interested parties to submit comments is appropriate. Therefore, DOE is extending the comment period until June 3, 2013 to provide interested parties additional time to prepare and submit comments. Accordingly, DOE will consider any comments received by June 3, 2013 to be timely submitted.

Issued in Washington, DC, on May 1, 2013.

Kathleen B. Hogan,

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

[FR Doc. 2013–10734 Filed 5–6–13; 8:45 am]

BILLING CODE 6450–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1075

[Docket No. CFPB–2013–0012]

RIN 3170–AA38

Consumer Financial Civil Penalty Fund

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or Act) establishes a ''Consumer Financial Civil Penalty Fund'' (Civil Penalty Fund) into which the Consumer Financial Protection Bureau (Bureau) must deposit any civil penalty it obtains against any person in any judicial or administrative action under Federal consumer financial laws. Under the Act, funds in the Civil Penalty Fund may be used for payments to the victims of activities for which civil penalties have been imposed under Federal consumer financial laws. In addition, to the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use funds in the Civil Penalty Fund for the purpose of consumer education and financial literacy programs. This proposal is related to a final rule published elsewhere in today's **Federal Register**. That final rule implements the statutory Civil Penalty Fund provisions by articulating the Bureau's interpretation of what kinds of payments to victims are appropriate and by establishing procedures for allocating funds for such payments to victims and for consumer education and financial literacy programs. This notice of proposed rulemaking seeks comments on possible revisions, adjustments, or refinements to the rule.

DATES: Comments must be received on or before July 8, 2013 to be assured of consideration.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2013–0012 or Regulatory Identification Number (RIN) 3170–AA38, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Instructions: All submissions should include the agency name and docket number or RIN for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can

make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Kristin Bateman, Attorney-Advisor, Legal Division, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552, at (202) 435–7821.

SUPPLEMENTARY INFORMATION:

I. Background

Title X of the Dodd-Frank Act established the Bureau with a mandate to regulate the offering and provision of consumer financial products and services under the Federal consumer financial laws. Public Law 111–203, section 1011(a) (2010), *codified at* 12 U.S.C. 5491(a). The Dodd-Frank Act authorizes the Bureau, among other things, to enforce Federal consumer financial laws through judicial actions and administrative adjudication proceedings. 12 U.S.C. 5563, 5564. In those actions and proceedings, a court or the Bureau may require a party that has violated the law to pay a civil penalty. *See, e.g.,* 12 U.S.C. 5565.

Section 1017(d)(1) of the Dodd-Frank Act establishes a separate fund in the Federal Reserve, the ''Consumer Financial Civil Penalty Fund'' (Civil Penalty Fund or Fund), into which the Bureau must deposit civil penalties it collects from any person in any judicial or administrative action under Federal consumer financial laws. 12 U.S.C. 5497(d)(1). Under the Act, amounts in the Fund may be used ''for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws.'' 12 U.S.C. 5497(d)(2). In addition, ''[t]o the extent that such victims cannot be located or such payments are otherwise not practicable,'' the Bureau may use amounts in the Fund for consumer education and financial literacy programs. *Id.*

Today, the Bureau is issuing a final rule entitled ''Consumer Financial Civil Penalty Fund Rule'' (Final Rule) that implements this section of the Dodd-Frank Act. Because the Final Rule is interpretive and procedural and relates to benefits, it is exempt from the notice-and-comment rulemaking requirements of the Administrative Procedure Act. Nonetheless, the Bureau believes public input on the Final Rule would be valuable. The Bureau therefore seeks comment on the choices reflected in the Final Rule and on possible revisions, adjustments, refinements, or other changes to the rule. This notice of proposed rulemaking presents several such changes that the Bureau is considering. In addition to those changes, the Bureau seeks comment on all aspects of the Final Rule and suggestions for modifications or alternatives.

II. Summary of the Proposal

Today, the Bureau is issuing a Final Rule to implement section 1017(d)(2) of the Dodd-Frank Act, 12 U.S.C. 5497(d)(2). As the Supplementary Information to the Final Rule explains in greater detail, the Final Rule specifies the conditions under which victims will be eligible for payment from the Civil Penalty Fund and the amounts of the payments that the Bureau may make to them. The Final Rule also establishes procedures for allocating funds for payments to victims and for consumer education and financial literacy programs, and for distributing allocated funds to individual victims. This notice of proposed rulemaking seeks comment on, and proposes to amend, the Final Rule.

First, this notice of proposed rulemaking seeks comment on the Final Rule's provision on the category of victims who are eligible for payments. Under the Final Rule, a victim is eligible for payment from the Civil Penalty Fund if a final order in a Bureau enforcement action imposed a civil penalty for the violation or violations that harmed the victim. The Bureau is considering whether it should make payments to a broader category of victims: victims of any *type* of ''activities'' for which civil penalties have been imposed under the Federal consumer financial laws, even if no enforcement action imposed a civil penalty for the *particular* ''activities'' that harmed the victim. The Bureau also seeks comment on how, under this alternative approach, it might identify the types of ''activities'' for which civil penalties were imposed, and how it might identify the victims of those types of activities who are eligible to receive Civil Penalty Fund payments.

Second, this notice of proposed rulemaking seeks comment on the Final Rule's provisions on the amounts of the payments that victims may receive. Under the Final Rule, the Bureau will use funds in the Civil Penalty Fund for payments to compensate eligible victims' uncompensated harm. The Bureau is considering whether it should instead pay victims a share of the civil penalties collected for the particular violations that harmed them. This notice also sets forth for comment two variations on that alternative. Under one, the Bureau would pay victims a share of the civil penalties collected for the particular violations that harmed them, but only to the extent that those payments do not exceed the victims' uncompensated harm. Under the other alternative, victims could receive a share of the civil penalties collected for the violations that harmed them, as well as additional amounts from the Civil Penalty Fund, up to the amount of their uncompensated harm. Under that alternative, when victims of a violation for which a civil penalty is obtained had already received full compensation, the amount of that civil penalty would become available for payments to victims of other violations who had not received full compensation.

This notice also seeks comment on the Final Rule's provisions regarding uncompensated harm. The Final Rule provides that a victim's uncompensated harm is the victim's compensable harm, as described in § 1075.104(c), minus any compensation for that harm that the victim has received or is reasonably expected to receive. This notice seeks comment on possible amendments to the provisions regarding what amounts a victim is ''reasonably expected to receive'' and what qualifies as compensable harm. The Final Rule provides that a victim is ''reasonably expected to receive,'' among other things, redress that does not arise from a Bureau enforcement action if a party has paid such redress to an intermediary for distribution to the victim. This notice seeks comment on whether the Bureau should also deem victims reasonably likely to receive any redress that a final judgment in a non-Bureau action orders a party to pay, unless there is some indication that the party will not pay it. The notice also seeks comment on whether it should change what qualifies as a victim's compensable harm in cases where the amount of that harm cannot be determined based on the terms of a final order alone. Under the Final Rule, victims' compensable harm in those circumstances is equal to their out-of-pocket losses. This notice seeks comment on whether victims' compensable harm in those circumstances should instead be whatever amount of harm the Fund Administrator determines is practicable given the facts of the particular case.

Third, this notice seeks comment on the schedule that the Final Rule establishes for allocating funds for

payments to victims and for consumer education and financial literacy programs. Under the Final Rule, the Fund Administrator—a Bureau employee charged with administering the Civil Penalty Fund—will allocate funds in the Civil Penalty Fund to classes of victims and, as appropriate, to consumer education and financial literacy programs every six months. This seeks comment on whether the Fund Administrator should allocate funds more or less frequently, or whether a different method of timing allocations would be appropriate.

Fourth, this notice seeks comment on the procedures for allocating funds to classes of victims, *i.e.,* to groups of similarly situated victims who suffered the same or similar violations for which the Bureau obtained relief in an enforcement action. In particular, the notice seeks comment on possible alternatives to the allocation procedures that the Final Rule establishes for when sufficient funds are not available to compensate fully the uncompensated harm of all victims to whom it is practicable to make payments.

Under the Final Rule, classes of victims are assigned to six-month periods based on when they first had uncompensated harm, and the Fund Administrator will prioritize allocations to classes of victims from the most recent six-month period. This notice describes and seeks comment on several alternatives or modifications to these allocation procedures. As one option, instead of prioritizing allocations to certain classes, the Fund Administrator might attempt to allocate available funds among all classes with uncompensated harm. As a second alternative, the Fund Administrator could prioritize allocations to classes of victims from the oldest, rather than most recent, six-month periods. As a third alternative, the Fund Administrator could prioritize allocations to classes in which individual victims have the greatest amount of uncompensated harm. As a fourth alternative, at times when insufficient funds are available to compensate fully the uncompensated harm of all victims, the Fund Administrator could make a discretionary decision about how to allocate the limited funds.

This notice also seeks comment on whether it should modify the allocation procedures to specify the amounts to be allocated to each class when the available funds are not sufficient to provide full compensation for the uncompensated harm of all victims from all classes from a single six-month period. In particular, the notice seeks comment on whether, in those circumstances, the Fund Administrator should allocate funds to the classes of victims from a single six-month period in a manner designed to ensure, to the extent possible, that the victims in those classes to whom it is practicable to make payments will receive compensation, through redress and Civil Penalty Fund payments, for an equal percentage of their compensable harm.

Fifth, this notice seeks comment on the provisions governing allocations to consumer education and financial literacy programs. Under the Final Rule, if the Fund Administrator allocates sufficient funds to classes of victims to provide full compensation for the uncompensated harm of all victims to whom it is practicable to make payments, she may allocate any remaining funds to consumer education and financial literacy programs. This notice seeks comment on whether the rule should limit the amount of funds that the Fund Administrator may allocate to consumer education and financial literacy programs in these circumstances.

Sixth, this notice seeks comment on possible amendments to the procedures that the Final Rule establishes for disposing of funds allocated to a class of victims that remain undistributed after the payments administrator has made, or attempted to make, payments to the victims in that class. Under the Final Rule, such remaining funds will be distributed to victims in the class to which the funds were allocated, up to the amount of the victims' remaining uncompensated harm. The Bureau seeks comment on whether it should instead require such remaining funds to be returned to the Civil Penalty Fund.

Finally, this notice also generally invites comment on all aspects of the Final Rule.

III. Legal Authority

The Bureau is proposing this rule pursuant to its authority under section 1022(b)(1) of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial law, 12 U.S.C. 5512(b)(1); and under section 1017(d) of the Dodd-Frank Act, which establishes the Civil Penalty Fund and authorizes the Bureau to use amounts in that Fund for payments to victims and for consumer education and financial literacy programs.

IV. Section-by-Section Description

Section 1075.100 Scope and Purpose

Section 1075.100 of the Final Rule describes the rule's scope and purpose, as explained in greater detail in the Supplementary Information to the Final Rule. The Bureau is not proposing changes to this section.

Section 1075.101 Definitions

Section 1075.101 of the Final Rule defines terms used in the rule, as described in greater detail in the **SUPPLEMENTARY INFORMATION** to the Final Rule. The Bureau seeks comment on each of the definitions set forth in the Final Rule and any suggested clarifications, modifications, or alternatives.

Section 1075.102 Fund Administrator

As discussed in greater detail in the Supplementary Information to the Final Rule, § 1075.102 of the Final Rule establishes within the Bureau the position of Civil Penalty Fund Administrator (Fund Administrator) and describes that person's role and the role of the Civil Penalty Fund Governance Board. The Bureau is not proposing changes to this section.

Section 1075.103 Eligible Victims

Section 1075.103 of the Final Rule provides that a victim is eligible for payment from the Civil Penalty Fund if a final order in a Bureau enforcement action imposed a civil penalty for the violation or violations that harmed the victim. This implements the Dodd-Frank Act, which authorizes Civil Penalty Fund payments to ''the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws.'' 12 U.S.C. 5497(d)(2). The Act does not clearly specify whether the particular activities that affected a particular victim must have been found to be violations in an enforcement action before the victim may receive payments from the Civil Penalty Fund. However, as explained in greater detail in the Supplementary Information to the Final Rule, the Bureau has interpreted section 1017(d)(2) of the Dodd-Frank Act as authorizing such payments only to the victims of particular violations for which civil penalties were imposed.

The Bureau seeks comment on the criteria for victims' eligibility for payment from the Civil Penalty Fund, as well as suggestions for modifications or alternatives. The Bureau also specifically seeks comment on whether it should instead interpret section 1017(d)(2) of the Dodd-Frank Act more broadly to authorize payments to

victims of any *type* of ''activities'' for which civil penalties were imposed under the Federal consumer financial laws, even if no enforcement action identified as a violation, or imposed a civil penalty for, the *particular* ''activities'' that harmed the victim.

The Bureau also seeks comment on how it might identify the types of ''activities'' that would qualify as ''activities for which civil penalties have been imposed'' under this alternative interpretation. One possibility would be for such activities to include actions by a defendant that are similar to actions by the same defendant that gave rise to a civil penalty. Another possibility would be to define the ''activities'' for which civil penalties are imposed at a higher level of generality. Under that approach, victims of a particular *type* of activity—for example, deceptive marketing of credit card add-on products or unlawful collection of advance fees in exchange for debt settlement services—would qualify as victims of ''activities for which civil penalties have been imposed'' so long as civil penalties had been imposed for those kinds of violations.

More broadly interpreting ''activities for which civil penalties have been imposed'' in either of these ways would make more victims eligible for payment from the Fund. On the other hand, this approach would be harder to administer, as it would not be as straightforward to identify the ''activities'' for which civil penalties were imposed as it would be to identify the violations for which civil penalties were imposed. This approach—and the second proposed way of defining the ''activities'' for which civil penalties are imposed, in particular—could require difficult subjective judgments about whether activities were sufficiently similar to activities that gave rise to civil penalties. The Bureau seeks comment on ways in which the Bureau might mitigate these potential problems.

Section 1075.104 Payments to Victims

104(a) In General

Section 1075.104(a) of the Final Rule provides that the Bureau will use funds in the Civil Penalty Fund for payments to compensate eligible victims' uncompensated harm, as described in paragraph (b) of this section. As explained in greater detail in the Supplementary Information to the Final Rule, this provision gives effect to the Bureau's interpretation of section 1017(d)(2) of the Dodd-Frank Act as authorizing payments to victims only up to the amount necessary to compensate them for the harm they suffered as a result of a violation.

The Bureau requests comment on this interpretation and suggestions for modifications or alternatives. The Bureau also specifically seeks comment on possible alternatives proposed here.

First, the Bureau seeks comment on whether it should base payments not on the amount of a victim's uncompensated harm, but rather solely on the size of the civil penalty paid for the violation that harmed the victim. Under that alternative, each payment would be a share of the civil penalty collected for the particular violation that harmed the victim receiving the payment, without regard to whether the payment was more or less than the victim's uncompensated harm. This approach would, in effect, take the civil penalty collected from one defendant and distribute it just to that defendant's victims. This differs from the approach taken in the Final Rule, which pools civil penalties from multiple cases for distribution to classes of eligible victims from all cases, as the discussion of § 1075.103 in the Supplementary Information to the Final Rule explains in further detail.

The Bureau also seeks comment on how, under this alternative approach, it would determine the share of a civil penalty that a victim would receive. For example, victims could receive equal shares of the civil penalty collected for the violation that harmed them, or they could receive shares of the civil penalty in proportion to the amount of harm they suffered from the violation.

The proposed alternative approach might be easier to administer than the approach taken in the Final Rule, because the Fund Administrator would consider individual civil penalty amounts and individual classes of victims in isolation. The amount of each payment also could be easier to calculate if victims simply received equal shares of the civil penalty imposed for the violation or violations that harmed them. In addition, under this proposed alternative, payments could be made more quickly because there would be no reason to wait to disburse funds after they are deposited in the Fund. Whenever a defendant paid a civil penalty into the Fund, the Fund Administrator could immediately allocate the amount of that penalty for distribution to that defendant's victims.

On the other hand, this approach could undercompensate some victims while overcompensating others. Victims of defendants with limited financial resources, or victims of defendants who for other reasons do not or cannot pay full redress or large penalties, likely would not receive full compensation for their harm under this approach. At the same time, victims of defendants who paid full redress would likely receive windfall payments.

The Bureau is also considering, and seeks comment on, two additional alternatives that would mitigate one or both of these negative consequences. First, the Bureau could pay victims a share of the civil penalties collected for the particular violations that harmed them, but only to the extent that those payments do not exceed victims' uncompensated harm. This could be somewhat more difficult to administer than the first proposed alternative because it would require calculation of victims' uncompensated harm, but it would avoid overcompensating victims. It could also lead to under-compensation of some victims, however. Under this approach, a victim could not receive any more than a share of the civil penalty paid for the violation that harmed the victim. If a victim's share of the civil penalty paid for the violation that harmed the victim was not enough to provide full compensation for the victim's uncompensated harm, the victim would not be eligible for additional payments. In cases where the victims of a violation for which a civil penalty was imposed had already received full compensation, the civil penalty amount would not be used for payments to victims of other violations, but would instead be used for consumer education and financial literacy programs.

A second additional alternative would avoid overcompensating victims while also giving all victims the opportunity to receive full compensation for their uncompensated harm. Under this second alternative, the Bureau could first pay victims their share of the civil penalty collected for the violation that harmed them, up to the amount of their uncompensated harm. Remaining amounts of that individual civil penalty could then go into a common pool of funds available for distribution to all eligible victims who have not yet received compensation for their uncompensated harm. Those victims could then receive additional amounts from that common pool up to the amount of their uncompensated harm. This approach, like the approach taken in the Final Rule, would neither under- nor over-compensate victims. Unlike the approach taken in the Final Rule, however, this alternative would ensure that funds from a particular defendant's civil penalty would not be used to pay victims of other defendants if the victims of that defendant had not yet received full compensation.

104(b) Victims' Uncompensated Harm

As noted above and explained in further detail in the **SUPPLEMENTARY INFORMATION** to the Final Rule, § 1075.104(a) of the Final Rule provides that the Bureau will use funds in the Civil Penalty Fund for payments to compensate eligible victims' uncompensated harm. In addition, some of the alternatives to that approach discussed above would also base the amount of Civil Penalty Fund payments in part on the amount of victims' uncompensated harm. Section 1075.104(b) of the Final Rule describes what constitutes victims' uncompensated harm. The Bureau seeks comment on this provision, as well as suggestions for modifications or alternatives.

Under § 1075.104(b) of the Final Rule, a victim's uncompensated harm is the victim's compensable harm, as described in § 1075.104(c), minus any compensation for that harm that the victim has received or is reasonably expected to receive. As the Supplementary Information to the Final Rule explains in greater detail, the Final Rule describes three categories of compensation that a victim ''has received or is reasonably expected to receive'' for purposes of this provision. The Bureau specifically requests comment on what categories of compensation a victim should be deemed ''reasonably expected to receive.''

In particular, the Bureau invites comment on when victims should be deemed ''reasonably expected to receive'' redress that does not arise from a Bureau enforcement action. Under the Final Rule, a victim is reasonably expected to receive such ''other'' redress only if a party has paid that redress to an intermediary for distribution to the victim. As the Supplementary Information to the Final Rule explains, this does not include amounts that a party has been ordered to pay but has not yet paid because the Bureau may not know whether a party is actually likely to pay redress ordered in a case to which the Bureau is not a party. As an alternative, the Bureau could instead deem victims reasonably likely to receive redress ordered in a final judgment in a non-Bureau action unless and until there is some indication that the defendant will not pay, such as if the defendant fails to pay by the time ordered. This approach could decrease the chances that a Civil Penalty Fund payment would duplicate compensation that a victim receives in the future as a result of other litigation.

104(c) Victims' Compensable Harm

As explained above, under the Final Rule, the Bureau will use funds in the Civil Penalty Fund for payments to compensate victims for their compensable harm, minus any compensation for that harm that they have received or are reasonably expected to receive. Section 1075.104(c) of the Final Rule describes the amount of victims' compensable harm for purposes of this rule. The Bureau seeks comment on this provision, as well as suggestions for modifications or alternatives.

As explained further in the **SUPPLEMENTARY INFORMATION** to the Final Rule, the Bureau interprets section 1017(d)(2) of the Dodd-Frank Act as directing the Bureau to make payments to victims only to the extent that such payments are practicable. For payments to be practicable, the Bureau must be able to determine the amount of the payments that the victims may receive—which, under the Final Rule, depends on the amount of the victims' harm—using means that are reasonable in the context of the Civil Penalty Fund. Section 1075.104(c) accordingly defines ''compensable harm'' to include only those amounts of harm that are practicable to calculate given the nature of the Civil Penalty Fund and the likely volume of payments. In particular, § 1075.104(c) of the Final Rule reflects the Bureau's understanding that it will be practicable to calculate only those harm amounts that can be determined by applying objective standards on a classwide basis. Section 1075.104(c) implements this understanding by describing specific measures by which harm may practicably be ascertained and by establishing procedures that the Fund Administrator will follow to determine compensable harm in each of several categories of cases.

Under the Final Rule, the amount of a victim's compensable harm will be based on the objective terms of a final order to the extent possible. Specifically, under the Final Rule, the Fund Administrator will refer to the terms of a final order to determine victims' compensable harm in three categories of cases. First, if a final order in a Bureau enforcement action ordered redress for a class of victims, the compensable harm of each victim in that class is equal to the victim's share of the total redress ordered, including any amounts that have been suspended or waived. Second, if the Bureau sought redress for a class of victims but a court or administrative tribunal denied that request for redress in the final order, the victims in that class have no compensable harm. Third, if the final order in a Bureau enforcement action neither ordered nor denied redress to victims but did specify the amount of their harm, including by prescribing a formula for calculating that harm, each victim's compensable harm is equal to that victim's share of the amount specified.

The Final Rule also describes how the Fund Administrator will determine the compensable harm of victims in classes for which the final order does not order redress, deny a request for redress, or specify the amount of harm—and thus for which it is not possible to base the amount of compensable harm on the terms of the final order alone. Under § 1075.104(c)(2)(iii) of the Final Rule, the compensable harm of victims of such classes is equal to their out-of-pocket losses that resulted from the violation or violations for which a civil penalty was imposed, except to the extent such losses are impracticable to determine. As explained further in the **SUPPLEMENTARY INFORMATION** to the Final Rule, this measure of harm is what would be ''practicable'' for the Bureau to determine in the context of disbursing funds from the Civil Penalty Fund. In particular, out-of-pocket losses generally may be measured by applying objective standards on a classwide basis, and evidence of such losses generally will be straightforward to obtain and assess without a need to make complex or subjective judgments.

The Bureau specifically requests comment on whether the Final Rule appropriately reflects what scope of harm would be practicable to calculate in cases in which the amount of that harm cannot be based on the terms of the final order alone. The Bureau also seeks suggestions for alternative ways in which the Fund Administrator could practicably determine victims' compensable harm in such cases, including suggestions for alternative measures of harm that may be practicable to calculate. The Bureau specifically requests comment on whether, rather than specifying a consistent measure of harm that will be practicable to determine in most cases, it should permit the Fund Administrator to decide on a case-by-case basis what measure of harm would be practicable to calculate given the circumstances of the particular case. The Bureau also seeks comment on what factors could make harm amounts practicable or impracticable to calculate. For example, harm could be impracticable to calculate if the relevant evidence is hard to find or gather. It may also be impracticable to calculate harm in the context of the Civil Penalty Fund if the

harm or the relevant evidence requires subjective evaluation. In some cases, calculating harm could be impracticable if doing so would involve complex calculations, or if developing a formula for calculating the amount of harm would require substantial economic analysis.

Section 1075.105 Allocating Funds from the Civil Penalty Fund—In General

Section 1075.105 of the Final Rule establishes basic procedures that the Fund Administrator will follow when allocating funds in the Civil Penalty Fund to classes of victims and to consumer education and financial literacy programs. In particular, this section describes the schedule for making allocations and specifies what funds will be available for the allocations made on that schedule. The Bureau seeks comment on this section and suggestions for modifications or alternatives.

105(a) In General

Section 1075.105(a) of the Final Rule provides that the Fund Administrator will allocate the funds specified in § 1075.105(c) to classes of victims and, as appropriate, to consumer education and financial literacy programs according to the schedule described in § 1075.105(b) and the guidelines set forth in §§ 1075.106 and 1075.107.

105(b) Schedule for Making Allocations

Section 1075.105(b)(1) of the Final Rule directs the Fund Administrator to establish and publish on *www.consumerfinance.gov* a schedule of six-month periods. As explained in greater detail in the Supplementary Information to the Final Rule, that schedule will govern when the Fund Administrator will allocate funds from the Civil Penalty Fund, what amounts will be available for allocation, and when classes of victims may be considered for allocations.

As the **SUPPLEMENTARY INFORMATION** to the Final Rule explains, the Bureau has chosen to make payments on a six-month schedule in part because it would be less fair to make payments on a continual basis, as funds are deposited and as classes of victims with uncompensated harm arise. If a class happened to have uncompensated harm for the first time on a day shortly after the Bureau had just allocated a substantial portion of the Civil Penalty Fund to some other class, victims in the new class would receive relatively small payments. Conversely, if a large amount were deposited into the Civil Penalty Fund, a class of victims that next had uncompensated harm would be relatively likely to receive full compensation for that harm. In both cases, coincidental timing would dictate the results. Allocating funds on a six-month schedule, by contrast, will give equal treatment to all classes from a given six-month period. The Bureau seeks comment on the proposed schedule for making allocations and suggestions for modifications or alternatives. The Bureau specifically requests comment on whether the periods under the schedule should be longer or shorter than six months, and on whether a different method of timing allocations would be appropriate.

105(c) Funds Available for Allocation

As the **SUPPLEMENTARY INFORMATION** to the Final Rule explains in greater detail, § 1075.105(c) of the Final Rule provides that the funds available for allocation following the end of a six-month period are those funds that were in the Civil Penalty Fund on the end date of that six-month period, minus (1) any funds already allocated, (2) any funds that the Fund Administrator determines are necessary for authorized administrative expenses, and (3) any funds collected pursuant to an order that has not yet become a final order. The Bureau seeks comment on this provision and suggestions for modifications or alternatives.

Section 1075.106 Allocating Funds to Classes of Victims

Section 1075.106 of the Final Rule describes how funds will be allocated to classes of victims and establishes which victim classes will get priority and how much money the Fund Administrator will allocate to victim classes when there are not enough funds available to provide full compensation to all eligible victims who have uncompensated harm. The Bureau requests comment on this provision and suggestions for modifications or alternatives.

106(a) Allocations When There Are Sufficient Funds Available To Compensate All Uncompensated Harm

As the **SUPPLEMENTARY INFORMATION** to the Final Rule explains in greater detail, § 1075.106(a) of the Final Rule provides that, if the funds available under § 1075.105(c) are sufficient, the Fund Administrator will allocate to each class of victims the amount necessary to compensate fully the uncompensated harm, determined under § 1075.104(b) as of the last day of the most recently concluded six-month period, of all victims in that class to whom it is practicable to make payments.

The Bureau requests comment on this procedure for allocating funds when the available funds are sufficient to compensate fully the uncompensated harm of all victims to whom it is practicable to make payments. The Bureau also requests suggestions for modifications or alternatives.

106(b) Allocations When There Are Insufficient Funds Available To Compensate All Uncompensated Harm

Section 1075.106(b) of the Final Rule establishes the procedures that the Fund Administrator will follow when the funds available under § 1075.105(c) are not sufficient to provide full compensation as described by paragraph (a). This section groups classes of victims according to the six-month period in which the victims first had uncompensated harm as described in § 1075.104(b). Paragraph (b)(1) specifies how classes of victims will receive priority according to their respective six-month periods. Paragraph (b)(2) explains how the Fund Administrator will identify the six-month period to which a class of victims belongs.

The Bureau seeks comment on these procedures for allocating funds when the available funds are not sufficient to compensate fully the uncompensated harm of all victims to whom it is practicable to make payments, and suggestions for modifications or alternatives.

106(b)(1) Priority to Classes of Victims From the Most Recent Six-Month Period

Under § 1075.106(b)(1) of the Final Rule, when there are insufficient funds available to provide all victims full compensation as described in paragraph (a), the Fund Administrator will prioritize allocations to classes of victims from the most recent six-month period. If funds remain after allocating to each class of victims from that six-month period the amount necessary to compensate fully the uncompensated harm, determined under § 1075.104(b) as of the last day of the most recently concluded six-month period, of all victims in that class to whom it is practicable to make payments, the Fund Administrator next will allocate funds to classes of victims from the preceding six-month period, and so forth until no funds remain. As the Supplementary Information to the Final Rule explains in greater detail, this process of allocating funds to classes of victims from one six-month period at a time will be more administratively efficient than allocating funds to all classes at once and will reduce the total administrative cost of distributing payments as well as the administrative cost per dollar distributed to victims.

The Bureau seeks comment on this provision and suggestions for alternatives or modifications. The Bureau also specifically seeks comment on several proposed alternatives or modifications.

Alternatives to the method for prioritizing allocations. First, the Bureau specifically seeks comment on several alternatives to the method that the Final Rule prescribes for prioritizing allocations. As one alternative, instead of prioritizing allocations to certain classes, the Bureau could attempt to allocate funds among all classes with uncompensated harm. That approach could distribute funds more evenly, but could result in significantly smaller individual payments.

As another alternative, instead of prioritizing allocations to classes of victims from more recent six-month periods, the Bureau could prioritize allocations to classes of victims from older six-month periods. On the one hand, giving priority to classes of victims from more recent six-month periods ensures that funds go first to victims who have not yet had an opportunity to receive payment from the Civil Penalty Fund, and next to victims who have had only one previous opportunity, and so forth. In addition, the records on classes of victims from more recent periods may be more up-to-date than the records on classes from older periods, and distributing funds to those more recent classes might therefore be more successful and require less cost and effort. Prioritizing allocations to classes from those more recent periods thus may result in more funds reaching victims. On the other hand, giving priority instead to classes of victims from older six-month periods would enable funds to be distributed to the victims in those classes before records age further and it becomes more difficult and costly to make payments to those victims.

As yet another alternative, the Bureau could prioritize allocations based on factors other than the six-month period in which a class became eligible for allocations from the Civil Penalty Fund. For example, the Bureau could prioritize allocations to the classes in which individual victims have the greatest amount of uncompensated harm. Under such an approach, the Bureau could assign classes to tiers based on the average uncompensated harm of the victims in the class. For example, classes of victims with an average uncompensated harm of $10,000 or more could be one tier; classes of victims with an average uncompensated harm of $1,000 to $9,999 could be another tier; and so forth. The Fund Administrator could then allocate funds first to the classes in the tier with the highest amount of average uncompensated harm, and then successively to each lower tier to the extent funds remain. This approach would ensure that victims with the largest amount of uncompensated harm would get priority. The Bureau seeks comment on this possible approach, and any modifications or alternatives, and on what the dollar thresholds for the tiers of average uncompensated harm should be under such an approach.

Another way in which the Bureau could prioritize allocations based on factors other than a class's six-month period would be to leave it to the Fund Administrator's discretion how to allocate funds at times when insufficient funds are available to compensate fully the uncompensated harm of all victims. This approach would give the Fund Administrator flexibility to consider all relevant circumstances to decide how to allocate funds most equitably. The Bureau seeks comment on all of these possible alternatives for prioritizing allocations when the available funds are not sufficient to compensate fully the uncompensated harm of all victims to whom it is practicable to make payments.

Modification to prescribe the amounts to be allocated. Second, the Bureau also specifically seeks comment on whether it should modify § 1075.106(b) to provide more detail on the amounts to be allocated when the available funds are not sufficient to provide full compensation for the uncompensated harm of all victims to whom it is practicable to make payments. The Final Rule specifies that the Fund Administrator will allocate to each class of victims from a single six-month period the amount necessary to compensate fully the uncompensated harm, determined under § 1075.104(b) as of the last day of the most recently concluded six-month period, of all victims in that class to whom it is practicable to make payments before allocating funds to classes from an earlier six-month period. The Final Rule is silent, however, on how funds will be allocated if insufficient funds are available to provide such full compensation to all classes from a single six-month period.

The Bureau seeks comment on whether it should modify § 1075.106(b) to prescribe the amounts that the Fund Administrator will allocate in those circumstances. In particular, the rule could direct the Fund Administrator to allocate funds to the classes of victims from a single six-month period in a manner designed to ensure, to the extent possible, that the victims in those classes to whom it is practicable to make payments will receive compensation, through redress and Civil Penalty Fund payments, for an equal percentage of their compensable harm, as described in § 1075.104(c). Consistent with the approach the Bureau takes generally in the Final Rule, that allocation would be based on the amount of each class's uncompensated harm as of the last day of the most recently concluded six-month period.

This allocation method could also apply if the Bureau adopted an alternative way of prioritizing allocations—other than by six-month period—as discussed above. For example, if the Bureau instead assigned classes of victims to tiers based on the average amount of uncompensated harm of the victims in the class, and prioritized allocations based on those tiers, this proposed modification could prescribe the amounts that the Fund Administrator would allocate to classes of victims from a single such tier.

The following examples illustrate how this allocation method would work. First, suppose there were two classes of victims from the most recent six-month period, and there were not enough funds to compensate fully the uncompensated harm of all victims in both classes. Imagine that those classes had suffered the harm and had received the payments reflected in this table:[1]

[1] This chart is provided solely for explanatory purposes. The numbers are hypothetical and are not based on any actual class of victims that is or may be eligible for payment from the Civil Penalty Fund.

	Number of victims	Compensable harm per victim	Redress paid by defendant to each victim	Each victim's uncompensated harm	Total uncompensated harm of the class	Percent of compensable harm for which each victim has received compensation
Class 1	40	$250	$125	$125	$5,000	50%
Class 2	25	400	0	400	10,000	0

Under the proposed modification, the Fund Administrator would allocate amounts in the Fund in a way designed to equalize, to the extent possible, the percentage of compensable harm for which each victim would receive compensation. Thus, if there were $7,500 in the Fund, the Fund Administrator would allocate $1,250 to Class 1 and $6,250 to Class 2, such that the following would result:

	Number of victims	Compensable harm per victim	Redress paid by defendant to each victim	Amount allocated to the class from CPF	CPF payment to each victim	Total payments (redress + CPF) to each victim	Percent of compensable harm for which each victim will receive compensation
Class 1	40	$250	$125	$1,250	$31.25	$156.25	62.5%
Class 2	25	400	0	6,250	250	250.00	62.5

In some circumstances, it will not be possible to equalize the percentage of compensable harm for which each victim receives compensation because one class of victims has already received compensation in the form of redress, and there are not enough funds in the Civil Penalty Fund to give comparable compensation to other victim classes. In these circumstances, the Fund Administrator would not—and, indeed, could not—actually achieve the goal of equalizing the percentage of compensable harm for which all victims receive compensation. Instead, under the proposed modification, the Fund Administrator would simply allocate funds in a way that equalizes the level of compensation across classes only to the extent possible. Thus, for example, assume that in the above scenario, the defendant paid the victims in Class 1 $200 each rather than $125 each:

	Number of victims	Compensable harm per victim	Redress paid by defendant to each victim	Each victim's uncompensated harm	Total uncompensated harm of the class	Percent of compensable harm that each victim has had compensated
Class 1	40	$250	$200	$50	$2,000	80%
Class 2	25	400	0	400	10,000	0

If there were $7,500 in the Fund, under the proposed modification, the Fund Administrator would allocate it all to Class 2, such that the following would result:

	Number of victims	Compensable harm per victim	Redress paid by defendant to each victim	Amount allocated to the class from CPF	CPF payment to each victim	Total payments (redress + CPF to each victim)	Percent of compensable harm that each victim will have compensated
Case 1	40	$250	$200	$0	$0	$200	80%
Case 2	25	400	0	7,500	300	300	75

This modification would not authorize or require the Fund Administrator to recover any funds already distributed to victims or to reverse a previous allocation to a class of victims, even if a class of victims would receive or had already received compensation for a greater percentage of their harm than other classes.

The Bureau seeks comment on this possible modification, as well as suggestions for other ways in which to prescribe the amounts to be allocated when insufficient funds are available to provide full compensation for the uncompensated harm of all victims in classes from a single six-month period.

106(b)(2) Assigning Classes of Victims to a Six-Month Period

As noted above, § 1075.106(b)(1) of the Final Rule instruct the Fund Administrator to allocate funds among classes of victims from a single six-month period before allocating funds to classes of victims from an earlier six-month period. Paragraph (b)(2) of this section of the Final Rule explains that

for purposes of paragraph (b), a class of victims is ''from'' the six-month period in which those victims first had uncompensated harm as described in § 1075.104(b). The provision further specifies how the Fund Administrator will determine when a class of victims first had such uncompensated harm.

First, if redress was ordered for a class of victims in a Bureau enforcement action but suspended or waived in whole or in part, the class of victims first had uncompensated harm, if it had any, on the date the suspension or waiver became effective. Second, if redress was ordered for a class of victims in a Bureau enforcement action, but the Chief Financial Officer determined that redress to be uncollectible in whole or in part, the class of victims first had uncompensated harm, if it had any, on the date the Chief Financial Officer made that determination. Finally, if no redress was ordered for a class of victims in a Bureau enforcement action, the class of victims first had uncompensated harm, if any, on the date the order imposing a civil penalty became a final order. As the **SUPPLEMENTARY INFORMATION** to the Final Rule explains in further detail, this provision corresponds to the definition of uncompensated harm in § 1075.104(b).

The Bureau seeks comment on this provision and suggestions for modifications or alternatives.

106(c) No Allocation to a Class of Victims If Making Payments Would Be Impracticable

Section 1075.106(c) of the Final Rule provides that, notwithstanding any other provision in this section, the Fund Administrator will not allocate funds available under § 1075.105(c) to a class of victims if she determines that making payments to that class of victims would be impracticable. As noted above, the Bureau understands the Dodd-Frank Act to direct payments from the Civil Penalty Fund to victims only to the extent that such payments are practicable. In some cases, it may be impracticable to make payments to an entire class of victims; the Fund Administrator will not allocate funds to such a class.

The Bureau requests comment on this provision and suggestions for modifications or alternatives.

106(d) Fund Administrator's Discretion

Section 1075.106(d)(1) of the Final Rule provides that, notwithstanding any provision in this part, the Fund Administrator, in her discretion, may depart from the procedures specified by this section, including by declining to make, or altering the amount of, any allocation provided for by this part. As the **SUPPLEMENTARY INFORMATION** to the Final Rule explains further, this provision is designed to give the Fund Administrator the flexibility to depart from the allocation procedures established by § 1075.106 when the circumstances warrant. Because the Bureau cannot anticipate all such circumstances, the Final Rule does not delineate particular circumstances in which the Fund Administrator may deviate from § 1075.106's allocation procedures, but rather leaves the decision to deviate to the Fund Administrator's discretion. Under the Final Rule, whenever the Fund Administrator exercises this discretion, she must provide the Civil Penalty Fund Governance Board a written explanation of the reasons for departing from the allocation procedures specified by this section.

The Final Rule makes clear that exercising this discretion cannot increase the funds available in a given time period for allocation to consumer education and financial literacy programs. Specifically, § 1075.106(d)(2) of the Final Rule provides that, if the Fund Administrator, in allocating funds during a given time period described by § 1075.105(b)(2), exercises her discretion under paragraph (d)(1) of this section, she may allocate funds to consumer education and financial literacy programs under § 1075.107 during that time period only to the same extent she could have absent that exercise of discretion.

The Bureau seeks comment on this provision and suggestions for modifications or alternatives.

Section 1075.107 Allocating Funds to Consumer Education and Financial Literacy Programs

107(a)

Section 1075.107(a) of the Final Rule implements the second sentence of section 1017(d)(2) of the Dodd-Frank Act, which authorizes the Bureau to use funds in the Civil Penalty Fund for the purpose of consumer education and financial literacy programs to the extent that victims cannot be located or payments to victims are otherwise not practicable. In particular, § 1075.107(a) provides that, if funds available under § 1075.105(c) remain after the Fund Administrator allocates funds as described in § 1075.106(a), she may allocate the remaining funds for consumer education and financial literacy programs. An allocation under § 1075.106(a) provides full compensation for the uncompensated harm of all victims to whom it is practicable to make payments. Thus, any funds remaining after such an allocation are available for consumer education and financial literacy programs.

The Bureau seeks comment on this provision and suggestions for modifications or alternatives. The Bureau specifically requests comment on whether the provision should limit the amount of funds that the Fund Administrator may allocate to consumer education and financial literacy programs. In particular, the rule could instead authorize the Fund Administrator to allocate only some portion of remaining funds to such programs. Limiting the Fund Administrator's authority to allocate remaining funds to consumer education and financial literacy programs could help ensure that, when funds remain after allocating funds to provide full compensation to all classes of victims to whom it is practicable to make payments, a balance will remain in the Fund for future victims. This would mitigate the risk that the Civil Penalty Fund would later lack sufficient funds to provide full compensation to classes of victims that become eligible for allocations in the future.

The Bureau also requests comment on what portion of remaining funds the Fund Administrator should be able to allocate to consumer education and financial literacy programs. One possible approach would be to authorize the Fund Administrator to allocate a certain percentage of remaining funds to consumer education and financial literacy programs. Another possible approach would be to require a specified amount to remain in the Fund and to authorize the Fund Administrator to allocate only the funds that exceed that particular ''reserved'' amount to consumer education and financial literacy programs. Yet another possible approach could cap the amount that the Fund Administrator may allocate to consumer education and financial literacy programs in any given period. Other alternatives could combine these approaches, for example, by authorizing the Fund Administrator to allocate a percentage of the funds that exceed the reserved amount to consumer education and financial literacy programs, but only up to a particular maximum amount. The Bureau also requests comment on what the appropriate percentage, reserved amount, and maximum amount would be under these possible approaches.

107(b)

Section 1075.107(b) clarifies that the Fund Administrator's authority to allocate funds for consumer education and financial literacy programs does not include the authority to allocate funds to particular consumer education or financial literacy programs or otherwise to select the particular consumer education or financial literacy programs for which allocated funds will be used. Instead, the Fund Administrator's authority is limited to determining the amount that is allocated for expenditure on those kinds of programs. As the Supplementary Information to the Final Rule notes, the Bureau has developed, and posted at *http://files.consumerfinance.gov/f/x200Bx200B;_fpb_civil_penalty_fund_criteria.pdf,* its criteria for selecting these programs. These criteria are beyond the scope of this rule. The Bureau is not proposing changes to this section.

Section 1075.108 Distributing Payments to Victims

As the **SUPPLEMENTARY INFORMATION** to the Final Rule explains, after the Fund Administrator allocates funds to a class of victims, those funds will be distributed to the individual victims in that class. Section 1075.108 of the Final Rule describes the process for distributing payments to victims.

108(a) Designation of a Payments Administrator

Section 1075.108(a) of the Final Rule provides that, upon allocating funds to a class of victims under § 1075.106, the Fund Administrator will designate a payments administrator who will be responsible for distributing payments to the victims in that class. The payments administrator may be any person, including a Bureau employee or contractor. The Bureau is not proposing changes to this paragraph.

108(b) Distribution Plan

Section 1075.108(b) of the Final Rule requires a payments administrator to submit to the Fund Administrator a proposed plan for distributing the funds that have been allocated to a class of victims. The Fund Administrator will then approve, approve with modifications, or disapprove the proposed distribution plan. If the Fund Administrator disapproves a proposed plan, the payments administrator must submit a new proposed plan. The Bureau is not proposing changes to this paragraph.

108(c) Contents of Plan

Section 1075.108(c) of the Final Rule indicates that the Fund Administrator will instruct the payments administrator to prepare a distribution plan and sets forth several elements that the Fund Administrator may require a distribution plan to include. The Supplementary Information to the Final Rule, and the Final Rule itself, provide further detail on the elements that the Fund Administrator may require a distribution plan to include. The Bureau requests comment on the contents of distribution plans and suggestions for modifications or alternatives.

108(d) Distribution of Payments

Section 1075.108(d) of the Final Rule provides that the payments administrator will make payments to victims in a class, except to the extent such payments are impracticable, in accordance with the distribution plan approved under paragraph (b) of this section and subject to the Fund Administrator's supervision. The Bureau requests comment on this provision and suggestions for modifications or alternatives.

108(e) Disposition of Funds Remaining After Attempted Distribution to a Class of Victims

Section 1075.108(e) of the Final Rule addresses the circumstance in which some of the funds allocated to a class of victims remain undistributed after the payments administrator has made, or attempted to make, payments to the victims in that class. Funds might remain if the payments administrator cannot make payments to all victims in a class—because some victims cannot be located, because some victims do not redeem their payments, or because of other similar circumstances. To the extent practicable, the payments administrator will distribute the remaining funds to victims in that class up to the amount of their remaining uncompensated harm as described in § 1075.104(b). As the Supplementary Information to the Final Rule explains, distributing remaining funds among victims in that class will often be the most efficient use of remaining funds because the payments administrator will have up-to-date information on the victims to whom it successfully made payments, and a second distribution to those victims likely will also be successful. Then, if funds remain after providing full compensation for the uncompensated harm of such victims, the remaining funds will be returned to the Civil Penalty Fund. Those funds will then be available for future allocation. The Supplementary Information to the Final Rule provides illustrative examples of how remaining funds would be distributed under this provision of the Final Rule.

The Bureau requests comment on this provision and any suggestions for modifications or alternatives.

The Bureau also specifically seeks comment on whether, instead of distributing remaining funds among victims in the class who have not yet received full compensation, it should return remaining funds to the Civil Penalty Fund for future allocation. Although this approach may not be as efficient as the approach taken in the Final Rule, it could ensure that victims receive the level of compensation that an allocation was designed to give them. Under this alternative, the happenstance of how many victims in a class could not practicably be paid would not affect the amount that other victims in that class would receive.

Section 1075.109 When Payments to Victims Are Impracticable

As noted above, pursuant §§ 1075.106 and 1075.108 of the Final Rule, the Bureau will not make payments to individual victims when doing so would be impracticable and will not allocate funds to a class of victims to the extent making payments to that class would be impracticable. Section § 1075.109 of the Final Rule identifies circumstances in which payments to victims will be deemed not practicable.

For reasons explained in the **SUPPLEMENTARY INFORMATION** to the Final Rule, whether payments to victims are practicable depends in part on the costs of those payments, in comparison to the size of the payments. Section 1075.109 of the Final Rule contains two paragraphs that implement that understanding of practicability by identifying circumstances in which the costs of making payments will likely be so great, relative to the size of the payments, that making those payments would be impracticable. The first paragraph discusses payments to individual victims, and the second relates to payments to entire classes of victims.

The Bureau seeks comment on the interpretation of ''practicable'' embodied in this section and suggestions for modifications or alternatives. It also seeks comment on the circumstances in which payments to individual victims or a class of victims will be impracticable under this provision, as well as suggestions for modifications or alternatives.

Section 1075.110 Reporting Requirements

Section 1075.110 requires the Fund Administrator to issue regular reports,

on at least an annual basis, that describe how funds in the Civil Penalty Fund have been allocated, the basis for those allocations, and how funds that have been allocated to classes of victims have been distributed. The section further provides that these reports will be made available to the public on *www.consumerfinance.gov.*

The Bureau requests comment on the proposed requirement for the Fund Administrator to issue reports on the Civil Penalty Fund and on subjects to be addressed in the report, as well as suggestions for modifications or alternatives to this provision.

V. Request for Comment

The Bureau invites comment on all aspects of the Final Rule, this notice of proposed rulemaking, and the specific issues upon which comment is solicited elsewhere herein, including on any appropriate modifications or exceptions to the Final Rule.

V. Section 1022(b)(2) of the Dodd-Frank Act

In developing the proposed rule, the Bureau is considering potential benefits, costs, and impacts, and has consulted or offered to consult with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Trade Commission, including with regard to consistency with any prudential, market, or systemic objectives administered by those agencies.[2] The analysis considers the benefits, costs, and impacts of the alternatives discussed in the proposal against a baseline that includes the Final Rule; that is, the analysis evaluates the benefits, costs, and impacts of the alternatives discussed as compared to the status quo where the provisions of the Final Rule remain in effect.[3]

This notice of proposed rulemaking seeks comment on several changes or amendments to the Final Rule's provisions that the Bureau is considering: the category of victims eligible for payments; the amounts of the payments that victims may receive, including the method for determining compensable harm; the schedule for allocating funds for payments to victims and for consumer education and financial literacy programs; the procedures for allocating funds to classes of victims; the allocations to consumer education and financial literacy programs; and the procedures for disposing of certain undistributed funds.

The alternatives discussed in this proposal would not impose any obligations on consumers or covered persons. Nor would the considered alternatives have any impact on consumers' access to consumer financial products or services. Rather, the alternatives discussed would potentially affect the total amount of money in the Civil Penalty Fund that is available for victim payments or for consumer education and financial literacy programs, as well as the allocation of funds between various groups of consumers or between payments to victims and funding for consumer education and financial literacy.

Those alternatives discussed in the proposal that would alter the cost of administering the Fund, either directly or indirectly, could potentially alter the total amount available for payments to victims and for consumer education and financial literacy programs. For example, under the Final Rule, victims' compensable harm is, in some cases, equal to their out-of-pocket losses. This notice seeks comment on whether victims' compensable harm in those circumstances should instead be whatever amount of harm the Fund Administrator concludes is practicable to determine given the facts of the particular case. Such discretion regarding the method of determination could make it more (or less) costly to administer victim payments, and with expenses paid from the Fund, could leave less (or more) money for other payments. Similarly, this notice seeks comment on whether the Bureau should pay victims a share of the civil penalties collected for the particular violations that harmed them, rather than the amount of their uncompensated harm. Calculating the amounts that victims would receive under that alternative could be less costly than calculating the amounts that victims will receive under the Final Rule, and accordingly could reduce the overall cost of administering the Fund. As a final example, under the Final Rule, when there are not enough funds available to provide full compensation to all eligible victims who have uncompensated harm, the Fund Administrator will prioritize allocations to classes of victims from the most recent six-month period. If the Bureau instead allocated funds among all classes of eligible victims, or prioritized allocations to classes of victims from older six-month periods, that could increase the costs of administering the fund and thereby impact the amounts available for payments to victims or for funding for consumer education or financial literacy.

Rather than impact overall distributions from the Fund, most of the alternatives discussed in this proposal would alter the allocation of funds among various groups of consumers, either as payments to victims or as funding for consumer education or financial literacy programs. In the absence of specific cases to analyze (since by definition, future cases have yet to be administered), this analysis cannot assess precise changes to the allocation: instead, it assesses broader categories of changes. For example, amendments that would allow the Bureau to make payments to a broader category of victims, (*e.g.,* victims of types of ''activities'' for which civil penalties have been imposed under the Federal consumer financial laws, even if no enforcement action identified those specific ''activities'' as violations and imposed civil penalties for them) would possibly transfer some funds among consumers: specifically, from victims in cases where to the Bureau has imposed civil penalties to consumers in this broader category of victims.

Amendments that would alter the amounts of the payments that any group of victims would receive could leave other victims with more or less compensation from the Fund, assuming the overall level of money in the Fund is unchanged. For example, were the Bureau to alter the rule to pay victims a share of the civil penalties collected for the particular violations that harmed them, some consumers would receive more or less money than under the current rule. Similarly, any changes to the allocation procedures established for when sufficient funds are not available to compensate fully the uncompensated harm of all victims to whom it is

[2] Section 1022(b)(2)(A) of the Dodd-Frank Act, 12 U.S.C. 55212(b)(2), directs the Bureau, when prescribing a rule under the Federal consumer financial laws, to consider the potential benefits and costs of regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on insured depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas. Section 1022(b)(2)(B) of the Dodd-Frank Act directs the Bureau to consult with appropriate prudential regulators or other Federal agencies regarding consistency with prudential, market, or systemic objectives that those agencies administer. The manner and extent to which these provisions apply to a rulemaking of this kind that does not establish standards of conduct is unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the described analyses and consultations.

[3] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits and costs and the appropriate baseline.

practicable to make payments could alter the total payments received by various consumers. As a final example, any changes that limit the amount of funds that the Fund Administrator may allocate to consumer education and financial literacy programs would shift potential benefits from consumers who benefit from these programs to other consumers.

The revisions to the Final Rule discussed in this rule would not have a unique impact on rural consumers. Since the amendments would not have any impact on covered persons, they also have no impact on insured depository institutions or insured credit unions with less than $10 billion in assets as described in section 1026(a) of the Dodd-Frank Act.

VI. Regulatory Requirements

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations. The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.[4]

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[5] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[6]

The undersigned certifies that this proposed rule would not have a significant impact on a substantial number of small entities. The Final Rule and proposed alternatives set forth only what Civil Penalty Fund payments the Bureau will make to victims and the procedures for allocating funds for such payments and for consumer education and financial literacy programs. The rule would not impose any substantive requirements on any small entities.

[4] 5 U.S.C. 601(3). The Bureau may establish an alternative definition after consultation with the Small Business Administration and an opportunity for public comment.

[5] 5 U.S.C. 603–605.

[6] 5 U.S.C. 609.

VII. Paperwork Reduction Act

The Bureau has determined that neither the Final Rule nor any of the alternatives proposed in this notice of proposed rulemaking imposes any new recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would constitute collections of information requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Comments on this determination may be submitted to the Bureau as instructed in the **ADDRESSES** section of this notice and to the attention of the Paperwork Reduction Act Officer.

List of Subjects in 12 CFR Part 1075

Administrative practice and procedure, Authority delegations, Consumer Financial Civil Penalty Fund, Consumer protection, Organization and functions.

Dated: April 26, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–10318 Filed 5–6–13; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0756; Directorate Identifier 2012–CE–012–AD]

RIN 2120–AA64

Airworthiness Directives; Piper Aircraft, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) that would have applied to all Piper Aircraft, Inc. (type certificate previously held by The New Piper Aircraft Inc.) Models PA–18 and PA–19 airplanes. The proposed airworthiness directive (AD) would have required either moving all toggle-style magneto switches located on the left cabin panel, adjacent to the front seat, away from this position; or replacing these switches with FAA-approved, non-keyed, rotary-style switches. Since issuance of the NPRM, the FAA has re-evaluated this airworthiness concern and determined that an unsafe condition does not exist that would warrant AD action. This withdrawal does not prevent the FAA from initiating future rulemaking on this subject.

FOR FURTHER INFORMATION CONTACT: Gary Wechsler, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5575; fax: (404) 474–5606; email: *gary.wechsler@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on July 19, 2012 (77 FR 42455). That NPRM proposed to require you to either move all toggle-style magneto switches located on the left cabin panel, adjacent to the front seat, away from this position; or replace these switches with FAA-approved, non-keyed, rotary-style switches.

Because of the comments received on the NPRM (77 FR 42455, July 19, 2012), the FAA re-evaluated the data collected on the safety concern and concluded that:

- an unsafe condition warranting AD action does not exist; and
- the associated level of risk does not warrant AD action.

To mitigate the safety concern from recurring, the FAA may take another airworthiness action such as a special airworthiness information bulletin (SAIB) to recommend the actions contained in the proposed rule and capture the concerns identified by the public during the NPRM (77 FR 42455, July 19, 2012) comment period.

Withdrawal of this NPRM (77 FR 42455, July 19, 2012) constitutes only such action and does not preclude the agency from issuing future rulemaking on this issue, nor does it commit the agency to any course of action in the future.

Regulatory Findings

Since this action only withdraws an NPRM, 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, the notice of proposed rulemaking (NPRM), FAA–2012–0756, published in the **Federal Register** on July 19, 2012 (77 FR 42455), is withdrawn.

Issued in Kansas City, Missouri, on May 1, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–10786 Filed 5–6–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0276; Airspace Docket No. 13–AEA–5]

Proposed Amendment of Class E Airspace; Plattsburgh, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace at Plattsburgh, NY, as the Clinton County Airport has closed and controlled airspace removed. New Class E Airspace at Plattsburgh International Airport would be created to accommodate standard instrument approach procedures developed at the airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations.

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

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2013–0276; Airspace Docket No. 13–AEA–5, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2013–0276; Airspace Docket No. 13–AEA–5) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0276; Airspace Docket No. 13–AEA–5.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

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

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to remove Class E airspace extending upward from 700 feet above the surface at Clinton County Airport, Plattsburgh, NY, due to the airport's closure. Class E airspace extending upward from 700 feet above the surface would be established within a 12.6-mile radius of Plattsburgh International Airport, Plattsburgh, NY to support new Standard Instrument Approach Procedures developed at the airport. The Clinton County Airport has closed, requiring airspace reorganization in the Plattsburgh, NY area, and for the continued safety and management of IFR operations.

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

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

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

would amend Class E airspace for the Plattsburgh, NY, airspace area.

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

Lists of Subjects in 14 CFR Part 71:

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment:

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

■ 1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth.

* * * * *

AEA NY E5 Plattsburgh, NY [Amended]

Plattsburgh International Airport, NY
(Lat. 44°39′03″ N., long. 73°28′05″ W.)

That airspace extending upward from 700 feet above the surface within a 12.6-mile radius of Plattsburgh International Airport.

Issued in College Park, Georgia, on April 30, 2013.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–10814 Filed 5–6–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0770; Airspace Docket No. 12–ASW–6]

Proposed Establishment of Class E Airspace; Presidio, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Presidio, TX. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Presidio Lely International Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

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

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–0770/Airspace Docket No. 12–ASW–6, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–0770/Airspace Docket No. 12–ASW–6.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius, with an extension to the east, and extending upward from 1,200 feet above the surface within a 62.5-mile radius, to accommodate new standard instrument approach procedures at Presidio Lely International Airport, Presidio, TX. Controlled airspace is needed for the safety and management of IFR operations at the airport.

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

listed in this document would be published subsequently in the Order.

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

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Presidio, TX [New]

Presidio Lely International Airport, TX
(Lat. 29°38′03″ N., long. 104°21′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Presidio Lely International Airport, and within 2 miles each side of the 070° bearing from the airport extending from the 6.5-mile radius to 13.4 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within a 62.5 mile radius of the airport, excluding that airspace within Mexico.

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

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–10163 Filed 5–6–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 579

[Docket No. 5573–N–02]

RIN 2506–AC33

Homeless Emergency Assistance and Rapid Transition to Housing: Rural Housing Stability Assistance Program and Revisions to the Definition of ''Chronically Homeless'' Extension of Public Comment Only for Rural Housing Stability Assistance Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On March 27, 2013, HUD published a proposed rule seeking public comment on regulations that HUD would establish for the Rural Housing Stability Assistance Program. In the March 27, 2013, proposed rule, HUD also solicited comment on proposed revisions to the definition of ''chronically homeless.''

This document announces that HUD is extending the public comment period only for the proposed regulations for the Rural Housing Stability Assistance Program to July 1, 2013. HUD is not extending the public comment deadline for HUD's proposed revisions to the definition of ''chronically homeless.'' HUD will commence reviewing public comments on the proposed definition of ''chronically homeless'' following the close of the comment period, May 28, 2013, provided in the March 27, 2013, publication.

DATES: *Comment Due Date.* July 1, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410–0500. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., eastern time, weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance

appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number). Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ann Marie Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–7000; telephone number 202–708–4300 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), enacted into law on May 20, 2009, consolidates three of the separate homeless assistance programs administered by HUD under the McKinney-Vento Homeless Assistance Act into a single Continuum of Care program, revises the Emergency Shelter Grants program and renames this program the Emergency Solutions Grants program, and creates the Rural Housing Stability Assistance program to replace the Rural Homelessness Grant program. The HEARTH Act also directs HUD to promulgate regulations for these new programs and processes. On December 5, 2011, at 76 FR 75954, HUD published in the **Federal Register** an interim rule to implement the Emergency Solutions Grants (ESG) program. On July 31, 2012, at 77 FR 45422, HUD published in the **Federal Register** an interim rule to implement the Continuum of Care (CoC) program.

On March 27, 2013, at 78 FR 18726, HUD published in the **Federal Register** a proposed rule that would establish the regulations for the Rural Housing Stability Assistance program. The purpose of the Rural Housing Stability Assistance program is to rehouse or improve the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area; stabilize the housing of individuals and families who are in imminent danger of losing housing; and improve the ability of the lowest-income residents of the community to afford stable housing. In the March 27, 2013, proposed rule, HUD also solicited public comment on proposed revisions to the definition of ''chronically homeless.''

''Chronically homeless'' was first defined in HUD's ESG interim rule. In the CoC interim rule, HUD noted concerns raised by commenters on the definition of ''chronically homeless,'' specifically with respect to HUD's definition on what constitutes an occasion of homelessness or homeless occasion. In the CoC interim rule, and based on public comment received on the ESG interim rule, HUD announced that it was not adopting the full definition of ''chronically homeless'' presented in the ESG rule; that it would not apply the definition of ''homeless occasion'' incorporated in the definition of ''chronically homeless'' and would give further consideration to the meaning of this phrase.

The March 27, 2013, proposed rule offered changes to the meaning of ''homeless occasion.'' Given the considerable public comment and outreach already undertaken by HUD with respect to the definition of ''homeless occasion,'' the extension of the public comment period provided in this notice is not extended to the definition of ''chronically homeless.'' As stated earlier in this notice, HUD will commence reviewing public comments on the proposed definition of ''chronically homeless'' following the close of the comment period, May 28, 2013, as stated in the March 27, 2013 publication.

Through this notice, HUD is extending the public comment period through July 1, 2013, only for the proposed regulations for the Rural Housing Stability Assistance program. Funds were never appropriated for the predecessor program for the Rural Housing Stability Assistance program, which was the Rural Homelessness Grant program, and consequently regulations were never promulgated. Accordingly, this is the first set of HUD regulations that would be put in place to address rural homelessness, and HUD understands the need to provide more time to comment on the proposed regulations.

Dated: April 30, 2013.

Mark Johnston,

Deputy Assistant Secretary for Special Needs Programs.

[FR Doc. 2013–10862 Filed 5–6–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.133B–8]

Proposed Priority—National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the Rehabilitation Research and Training Center (RRTC) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this notice proposes a priority for an RRTC on Disability in Rural Areas. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend the priority to contribute to improved outcomes for individuals with disabilities who live in rural areas.

DATES: We must receive your comments on or before June 6, 2013.

ADDRESSES: Address all comments about this notice to Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

If you prefer to send your comments by email, use the following address: *marlene.spencer@ed.gov.* You must include the phrase ''Proposed Priority for an RRTC on Disability in Rural Areas'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This notice of proposed priority is in concert with NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *http://www.gpo.gov/fdsys/pkg/FR-2013-04-04/pdf/2013-07879.pdf.*

Through the implementation of the Plan, NIDRR seeks to improve outcomes

for individuals with disabilities in the domains of health and function, employment, and community living through comprehensive programs of research, engineering, training, technical assistance, and knowledge translation and dissemination. The Plan reflects NIDRR's commitment to quality, relevance, and balance in its programs to ensure appropriate attention to all aspects of well-being of individuals with disabilities and to all types and degrees of disability, including low-incidence and severe disabilities.

This notice proposes one priority, which NIDRR intends to use for a competition in FY 2013 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make an award using this priority. The decision to make an award will be based on the quality of applications received and available funding.

Invitation to Comment: We invite you to submit comments regarding this priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 5133, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of, services authorized under the Rehabilitation Act, as amended, through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with disabilities. Additional information on the RRTC program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priority

This notice contains one proposed priority.

RRTC on Disability in Rural Areas

Background

The rate of disability in rural areas is higher than in urban areas. The United States Census Bureau estimates that individuals with disabilities make up 13.2 percent of the total civilian, noninstitutionalized population who live in rural communities. By comparison, the comparable rate of disability in urban areas (metropolitan and micropolitan) is 11.6 percent (U.S. Census Bureau, 2011a).

Living in a rural environment presents unique challenges. Compared to those living in nonrural areas, people living in rural areas tend to be more geographically dispersed and generally have less access to public transportation (Brown, 2008), employment and educational opportunities (White House Council of Economic Advisors, 2010; Brown, 2008), and health networks and health care providers (Jones et al. 2009; West and Mackenzie, 2011). Further, significantly fewer individuals living in rural areas have high-speed broadband connections for their computers or telecommunications devices, which affects many aspects of their life (Federal Communications Commission, 2011).

NIDRR funds research on the experiences and outcomes of individuals with disabilities in the following three domains: Health and function, employment, and community living and participation. Individuals with disabilities who live in rural areas where essential services are often limited face difficulties in each of these domains. For example, limited networks of doctors in rural areas often make it difficult for individuals with disabilities to find local primary care and specialty doctors who understand their disabling conditions and their related health care needs (Iezzoni, Killeen, & O'Day, 2006).

The types and rates of community participation and social engagement also differ between individuals with disabilities in rural and nonrural areas. Individuals with disabilities who live in rural areas are less likely to be employed than those in nonrural areas (U.S. Census Bureau, 2011b), and rural vocational rehabilitation clients with severe disabilities are less likely than those with severe disabilities in nonrural areas to achieve successful employment outcomes (Lustig, Weems & Strauser, 2004). In contrast, people with disabilities in rural areas have been found to be more likely than individuals with disabilities living in nonrural areas to participate in volunteer work and to attend community events (Nicholson & Cooper, 2012; McPhedran, 2011). Limited research suggests that individuals with disabilities who live in rural and nonrural areas have similar rates of contact with people across a wide range of settings but that individuals with disabilities in rural areas may not have as many close social relationships as those in nonrural areas (Nicholson & Cooper, 2012).

Research is needed in each of NIDRR's domains to generate new knowledge about the the experiences and outcomes of individuals with disabilities who are living in rural areas. This new knowledge is needed to improve the systems that provide support and services to individuals with disabilities in rural areas and their families. Specifically, there is a need for additional research to identify programs or interventions that can lead to improved employment, health and function, and community living and

participation outcomes for individuals with disabilities in rural areas.

References

Brown, D. 2008. Public transportation on the move in rural America. Washington, DC: Economic Research Service, U.S. Department of Agriculture. Retrieved from: *www.nal.usda.gov/ric/ricpubs/publictrans.htm.*

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McPhedran, S. (2011). Disability and community life. Does regional living enhance social participation? Journal of Disability Policy Studies, 22(1), 40–54.

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West, A. & Mackenzie, T. (2011). Time Trends in Expenditures for Rural Veterans' Healthcare, *Journal of Rural Social Sciences,* 26(3), 181–200.

White House Council of Economic Advisors (2010), *Strengthening the Rural Economy—The Current State of Rural America.''* Retrieved from: *www.whitehouse.gov/administration/eop/cea/factsheets-reports/strengthening-the-rural-economy/the-current-state-of-rural-america.*

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Research and Training Center (RRTC) on Disability in Rural Areas. This RRTC must conduct rigorous research, and provide training, technical assistance, and information to improve the outcomes of individuals with disabilities who live in rural areas. The RRTC must:

(a) Conduct research that examines experiences and outcomes of individuals with disabilities who live in rural areas and apply the research findings to develop interventions that improve those outcomes. Applicants must focus their research activities on topics that fall under at least one of the following major life domains identified in NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299): Employment, Community Living and Participation, or Health and Function;

(b) Serve as a national resource center for individuals with disabilities living in rural areas, their families, service and support providers, and other stakeholders by conducting knowledge translation activities that include, but are not limited to:

(1) Providing information and technical assistance to service providers, individuals with disabilities living in rural areas and their representatives, and other key stakeholders;

(2) Providing training, including graduate, pre-service, and in-service training, to rehabilitation service providers and other disability service providers, to facilitate more effective delivery of services to individuals with disabilities living in rural areas. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities;

(3) Disseminating research-based information and materials related to living with a disability in rural areas; and

(c) Involve individuals with disabilities who live in rural areas in planning and implementing the RRTC's activities, and in evaluating the RRTC's work.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to

review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this proposed priority is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to the RRTCs have been completed successfully, and the proposed priority will generate new knowledge through research. The new RRTCs will generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities who live in rural areas in the areas of community living and participation, employment, and health and function.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 1, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–10833 Filed 5–6–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2013–0059; FRL–9809–2]

Approval and Promulgation of Air Quality Implementation Plans; State of Wyoming; Revised General Conformity Requirements and an Associated Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of a State Implementation Plan revision submitted by the State of Wyoming. On December 21, 2012, the Governor of Wyoming's designee submitted to EPA revisions to Wyoming's Air Quality Standards and Regulations Chapter 8, Nonattainment Area Regulations, involving Section 3 of Chapter 8 that addresses general conformity requirements and a new Section 5 to Chapter 8 that involves incorporation by reference. The SIP submission addresses revisions and additions to the State's general conformity requirements in order to align them with the current federal general conformity regulation requirements and incorporates by reference those sections of the Code of Federal Regulations that are referred to in the State's general conformity requirements. EPA is proposing approval of the submission in accordance with the requirements of section 110 of the Clean Air Act.

DATES: Comments must be received on or before June 6, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2013–0059, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: russ.tim@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

• *Hand Delivery:* Carl Daly, Director, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2013–0059. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://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 *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I, General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6479, *russ.tim@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *NAAQS* mean national ambient air quality standard.

(iv) The initials *SIP* mean or refer to State Implementation Plan.

(v) The words *Wyoming* and *State* mean the State of Wyoming.

Table of Contents

I. General Information

1. *Submitting CBI.* Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. Background

The intent of the general conformity requirement is to prevent the air quality impacts of federal actions from causing or contributing to a violation of a National Ambient Air Quality Standard (NAAQS) or interfering with the purpose of a State Implementation Plan (SIP). Under the Clean Air Act (CAA) as amended in 1990, Congress recognized that actions taken by federal agencies could affect state and local agencies' abilities to attain and maintain the NAAQS. Section 176(c) of the CAA, as codified in Title 42 of the United States Code (42 U.S.C. 7506), requires federal agencies assure that their actions conform to the applicable SIP for attaining and maintaining compliance with the NAAQS. General conformity is defined to apply to NAAQS established pursuant to section 109 of the CAA, including the NAAQS for carbon monoxide (CO), nitrogen dioxide (NO_2), ozone, particulate matter, and sulfur dioxide (SO_2). Because certain provisions of section 176(c) of the CAA apply only to highway and mass transit funding and approval actions, EPA published two sets of regulations to implement section 176(c) of the CAA—one set for transportation conformity and one set for general conformity. The federal general conformity regulations were published on November 30, 1993 (58 FR 63214) and codified in the Code of Federal Regulations (CFR) at 40 CFR 93 Subpart B.

On July 17, 2006, EPA revised the federal general conformity regulations via a final rule (71 FR 40420). EPA had promulgated a new NAAQS on July 18,

1997 (62 FR 38652) that established a separate NAAQS for fine particulate smaller than 2.5 micrometers in diameter ($PM_{2.5}$). The prior coarse particulate matter NAAQS promulgated in 1997 pertains to particulate matter under 10 micrometers in diameter (PM_{10}). EPA's July 17, 2006 revision to the federal general conformity regulations (71 FR 40420) added requirements for $PM_{2.5}$ for the first time, including annual emission limits of $PM_{2.5}$ above which covered federal actions in NAAQS nonattainment or maintenance areas would be subject to general conformity applicability.

On April 5, 2010, EPA revised the federal general conformity regulations to clarify the conformity process, authorize innovative and flexible compliance approaches, remove outdated or unnecessary requirements, reduce the paperwork burden, provide transition tools for implementing new standards, address issues raised by federal agencies affected by the rules, and provide a better explanation of conformity regulations and policies (see 75 FR 17254, April 5, 2010). EPA's April 2010 revisions simplified state SIP requirements for general conformity, eliminating duplicative general conformity provisions codified at 40 CFR part 93 Subpart B and 40 CFR part 51, Subpart W. Finally, the April 2010 revision updated federal general conformity regulations to reflect changes to governing laws passed by Congress since EPA's 1993 rule. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) passed by Congress in 1995 contains a provision eliminating the CAA requirement for states to adopt general conformity SIPs. As a result of SAFETEA–LU, EPA's April 2010 rule eliminated the federal regulatory requirement for states to adopt and submit general conformity SIPs, instead making submission of a general conformity SIP a state option.

With respect to Wyoming's general conformity requirements, EPA originally approved Wyoming's ''Conformity of general federal actions to state implementation plans'' into Section 32 of Wyoming's Air Quality Standards Regulations (WAQSR) with our final rule of November 19, 1999 (64 FR 63206). This version of Wyoming's ''Conformity of general federal actions to state implementation plans'' requirements was developed by the State to address the federal general conformity requirements that were promulgated on November 30, 1993 (58 FR 63214). On July 28, 2004, we approved Wyoming's restructuring and renumbering SIP submittal which then located Wyoming's ''Conformity of General Federal Actions to State Implementation Plans'' into WAQSR Chapter 8, Section 3 (see 69 FR 44965).

III. What was the State's process?

Section 110(a)(2) of the CAA requires that a state provide reasonable notice and public hearing before adopting a SIP revision and submitting it to us.

On October 5, 2012, the Environmental Quality Council of the Wyoming Department of Environmental Quality conducted a public hearing to consider the adoption of revisions and additions to the Wyoming Air Quality Standards and Regulations. The revisions affecting the SIP involved Chapter 8, ''Nonattainment Area Regulations'', Section 3, ''Conformity of general federal actions to state implementation plans'', and Section 5, ''Incorporation by reference''. After reviewing and responding to comments received before and during the public hearing, the Wyoming Environmental Quality Council approved the proposed revisions on October 5, 2012. The SIP revisions became State effective on December 19, 2012 and the Governor's designee submitted the SIP revisions to EPA on December 21, 2012.

We have evaluated Wyoming's SIP revision submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By a letter dated March 20, 2013, we advised the Governor's designee that the SIP revision submittal was deemed to have met the minimum ''completeness'' criteria found in 40 CFR part 51, Appendix V.

IV. EPA's Evaluation of the State's Revisions to Chapter 8, Sections 3 and 5

On December 21, 2012, the State of Wyoming submitted revisions to its SIP. The SIP revision consisted of changes and additions to Wyoming's WAQSR Chapter 8, Section 3, ''Conformity of general Federal actions to state implementation plans'', and a new Section 5, ''Incorporation by reference''. The purpose of Wyoming's SIP revision was to update its general conformity requirements to address and align the State's requirements with the federal general conformity requirements promulgated on July 17, 2006 (71 FR 40420) and on April 5, 2010 (75 FR 17254), as described above. The revisions to Wyoming's general conformity regulation, adopted on October 5, 2012 and State effective on December 19, 2012, are described below and make numerous changes to the prior, EPA-approved version of Wyoming's general conformity requirements (State effective October 29, 1999 and EPA effective on January 18, 2000). In addition, Wyoming added a new Section 5 which incorporates by reference certain areas of the Code of Federal Regulations.

a. Revisions to WAQSR Chapter 8, Section 3

1. Section 3, (a) ''Prohibition'' was modified to remove obsolete provisions in (a)(iii) and now makes this section reserved.

2. Section 3, (a) ''Prohibition'' was modified to define NEPA in (a)(iv) and to add a new section (v) that indicates if an action in one nonattainment or maintenance area would affect another nonattainment or maintenance area, both areas must be evaluated.

3. Section 3, (b) ''Definitions'' was modified to revise, add or delete the definitions for: *''Applicability analysis'', ''Applicable implementation plan or applicable SIP'', ''Areawide air quality modeling analysis'', ''Cause or contribute to a new violation'', ''Confidential business information (CBI)'', ''Conformity determination'', ''Conformity evaluation'', ''Continuing program responsibility'', ''Continuous program to implement'', ''Direct emissions'', ''Emission inventory'', ''Emissions offsets'', ''Emissions that a Federal agency has a continuing program responsibility for'', ''EPA'', ''Federal agency'', ''Indirect emissions'', ''Local air quality modeling analysis'', ''Maintenance area'', ''Maintenance plan'', ''Metropolitan Planning Organization (MPO)'', ''Milestone'', ''Mitigation measure'', ''National ambient air quality standards (NAAQS)'', Nonattainment area (NAA)'', ''Precursors of a criteria pollutant'', ''Reasonably foreseeable emissions'', ''Regionally significant action'', ''Restricted information''*, and *''Take or start the Federal action''.*

4. Section 3, (c) ''Applicability'' was revised as follows:

A. Section 3, (c)(ii) was modified to provide clarification of emissions to include ''criteria'' and ''precursors''.

B. Section 3, (c)(ii)(A) was modified to update the language to state ''Other ozone NAAs inside an ozone transport region'' and emissions thresholds were added for $PM_{2.5}$ and its precursors.

C. Section 3, (c)(ii)(B) was modified to add emissions thresholds for $PM_{2.5}$ and its precursors.

D. Section 3, (c)(iii) was modified by adding language to indicate the requirements of this section do not apply to certain Federal actions.

E. Section 3, (c)(iii)(B)(XXII) was added to address air traffic control activities.

F. Section 3, (c)(iv)(A) was modified to include the portion of an action that includes, in addition to major, minor new or modified stationary sources that require a permit under the New Source Review (NSR) program (Section 110(a)(2)(C) and section 173 of the CAA), and therefore, a conformity determination is not required for sources so permitted.

G. Section 3, (c)(iv)(B) was modified to remove specific examples of natural disasters and keep the provisions to address emergencies.

H. Section 3, (c)(v)(B)(I) adds language that a federal agency must provide a draft copy of the written determinations required to affected EPA Regional Office(s), the affected State(s) and/or air pollution control agencies, and any federally recognized Indian tribal government in the nonattainment or maintenance area. Those organizations must be allowed 15 days from the beginning of the extension period to comment on the draft determination.

I. Section 3, (c)(v)(B)(II) adds language that within 30 days after making the determination, federal agencies must publish a notice of the determination by placing a prominent advertisement in a daily newspaper of general circulation in the area affected by the action.

J. Section 3, (c)(v)(C) adds language that if additional actions are necessary in response to an emergency or disaster under this subsection beyond the specified time period in paragraph (v)B of this subsection, a federal agency can make a new written determination for as many 6-month periods as needed, but in no case does this exemption extend beyond three 6-month periods. An exception is where an agency provides information to EPA and the State stating that the conditions that gave rise to the emergency exemption continue to exist and how such conditions effectively prevent the agency from conducting a conformity evaluation.

K. Section 3, (c)(vi) adds language which states that actions specified by individual federal agencies as ''presumed to conform'' may not be used in combination with one another when the total direct and indirect emissions from the combination of actions would equal or exceed any of the rates specified in Section 3 paragraphs (c)(ii)(A) or (c)(ii)(B).

L. Section 3, (c)(vii) adds language that the federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in Section 3 paragraphs (c)(vii)(A), or (c)(vii)(B), or (c)(vii)(C).

M. Section 3, (c)(vii)(C) adds language that the federal agency must clearly demonstrate that the emissions from the type or category of actions and the amount of emissions from the action are included in the applicable SIP and the State, local, or tribal air quality agencies responsible for the SIP(s) provide written concurrence that the emissions from the actions along with all other expected emissions in the area will not exceed the emission budget in the SIP.

N. Section 3, (c)(viii) states that in addition to meeting the criteria for establishing exemptions as set forth in paragraphs (vii)(A) or (vii)(B) of the subsection, the new paragraph (vii)(C) is also included.

O. Section 3, (c)(viii)(A) adds language that the referenced **Federal Register** action must clearly identify the type and size of the action that would be ''presumed to conform'' and provide criteria for determining if the type and size of action qualifies it for the presumption.

P. Section 3, (c)(viii)(B) adds language that if the ''presumed to conform'' action has regional or national application (e.g., the action will cause emission increases in excess of the *de minimis* levels of this subsection) in more than one of EPA's Regions, the federal agency, as an alternative to sending it to EPA Regional Offices, can send the draft conformity determination to EPA's Office of Air Quality Planning and Standards.

Q. Section 3, (c)(ix) removed previous language and added language that emissions from actions are ''presumed to conform'' from: (1) installations with facility-wide emission budgets meeting the necessary requirements and that the State has included the emission budget in the EPA-approved SIP and the emissions from the action along with all other emissions from the installation will not exceed the facility-wide emission budget; (2) prescribed fires conducted in accordance with a smoke management program which meets the requirements of EPA's Interim Air Quality Policy on Wildland and Prescribed Fires or an equivalent replacement EPA policy; or (3) emissions for actions that the State identifies in the EPA-approved SIP as ''presumed to conform''.

R. Section 3, (c)(x) removed previous language and added language which states that even though an action would otherwise be ''presumed to conform'' under Section 3 paragraphs (vi) or (ix) of this subsection, an action shall not be ''presumed to conform'' and the requirements of 40 CFR 93.151, Subsection (a), Subsections (d) through (j) and Subsections (l) through (n) shall apply to the action if EPA or a third party shows that the action would: (1) cause or contribute to any new violation of any standard in any area; (2) interfere with provisions in the applicable SIP for maintenance of any standard; (3) increase the frequency or severity of any existing violation of any standard in any area; or (4) delay timely attainment of any standard or any required interim emissions reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of a demonstration of reasonable further progress, a demonstration of attainment, or a maintenance plan.

S. Section 3, (c)(xi)(d) was modified to add language that the provisions of Section 3 shall apply except in the case of newly designated nonattainment areas where the requirements are not applicable until 1 year after the effective date of the final nonattainment designation for each NAAQS pollutant in accordance with section 176(c)(6) of the CAA.

T. Section 3, (c)(xi)(e) ''Reporting requirements'' was modified to add language that any federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area. In addition, the added language stated that the draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect restricted information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a restricted information annex to the determination for review by federal and state representatives who have received appropriate clearances to review the information.

U. Section 3, (c)(xi)(f)(ii), (iii), and (iv) under ''public participation'' was modified to add language that if the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in Subsection (c)(ii) in three or more of EPA's Regions)), the federal agency, as an alternative to publishing separate

notices, can publish a notice in the **Federal Register**.

V. Section 3, (c)(xi)(f)(v) under ''public participation'' was modified to add language that the draft and final conformity determination shall exclude any restricted information or confidential business information. This section also notes that the disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations, or executive orders concerning the release of such materials.

W. Section 3, (c)(xi)(g) was renamed ''Reevaluation of conformity'' and included new language in sections (c)(xi)(g)(i) and (iv) addressing when a federal action has commenced and that once a conformity determination is completed by a federal agency, that determination is not required to be reevaluated if the agency has maintained a continuous program to implement the action; the determination has not lapsed; or any modification to the action does not result in an increase in emissions above the levels specified in Section 3. The additional language continues that if a conformity determination is not required for the action at the time the NEPA analysis is completed, the date of the finding of no significant impact ''FONSI'' for an Environmental Assessment, a record of decision ''ROD'' for an Environmental Impact Statement, or a categorical exclusion determination can be used as a substitute date for the conformity determination date.

X. Section 3, (c)(xi)(g)(iv) also notes that if the federal agency originally determined through the applicability analysis that a conformity determination was not necessary because the emissions for the action were below the limits in Subsection (c)(ii) of this section and changes to the action would result in the total emissions from the action being above the limits in Subsection (c)(ii) of this section, then the federal agency must make a conformity determination.

Y. Section 3, (c)(xi)(h) ''Criteria Determining Conformity of General Federal Actions'' had several revisions addressing; (1) addition of ''precursor'' for emissions, (2) offsets coming from a nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the federal action, (3) where a federal agency made a conformity determination based on a State's commitment and the State has submitted a SIP to EPA covering the time period during which the emissions will occur or is scheduled to submit such a SIP within 18 months of the conformity determination, (4) where a federal agency made a conformity determination based on a State commitment and the State has not submitted a SIP covering the time period when the emissions will occur or is not scheduled to submit such a SIP within 18 months of the conformity determination, the State must, within 18 months, submit to EPA a revision to the existing SIP committing to include the emissions in the future SIP revision, (5) offset emissions may come from within the same nonattainment or maintenance area or from a nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the federal action, (6) baseline emissions from the most current calendar year with a complete emission inventory available before an area is designated unless EPA sets another year or the emission budget in the applicable SIP, (7) the motor vehicle emissions model previously specified by EPA as the most current version may be used unless EPA announces a longer grace period in the **Federal Register**, (8) ''Guideline on Air Quality Models'' as noted in Appendix W to 40 CFR part 51, and (9) the attainment year specified in the SIP, or if the SIP does not specify an attainment year, the latest attainment year possible under the CAA as specified in three options.

Z. Section 3, (c)(xi)(h)(i)(D) ''For CO or directly emitted PM_{10}'': EPA notes that although the State updated other sections of WAQSR Chapter 8, Section 3 to address our general conformity provisions for $PM_{2.5}$, it inadvertently did not include the EPA revision to 40 CFR 93.158(a)(4). In our April 5, 2010 **Federal Register** action (see 75 FR 17254) we changed the language at 40 CFR 93.158(a)(4) for directly emitted CO and PM_{10} to ''For CO or directly emitted PM''. The reason for this change to only ''PM'' was to address both $PM_{2.5}$ and PM_{10}. EPA does not view this inadvertent omission by the State as being an approvability issue. Currently, all of Wyoming is designated as ''attainment/unclassifiable'' for both the 1997 annual $PM_{2.5}$ NAAQS and the 2006 24-hour $PM_{2.5}$ NAAQS (see: 70 FR 944, January 5, 2005 and 74 FR 58688, November 13, 2009 respectively, and 40 CFR 81.351). Therefore, general conformity for $PM_{2.5}$ does not apply in Wyoming. If in the future any area in Wyoming is designated as nonattainment for either the annual or 24-hour $PM_{2.5}$ NAAQS, general conformity will not apply until one year after the effective date of the nonattainment designation (CAA section 176(c)(6)). Within that one year ''grace period'' before general conformity would apply, EPA will require Wyoming to update Chapter 8, Section 3(c)(xi)(h)(i)(D) to correctly reflect ''For CO or directly emitted PM'' and submit this update to EPA as a revision to the SIP.

AA. Section 3, (c)(xi)(k) ''Conformity Evaluation for Federal Installations With Facility-Wide Emission Budgets'' revised and added new language that included requirements and provisions addressing: (1) time periods, (2) the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance, (3) specific quantities allowed to be emitted on an annual or seasonal basis, (4) that the emissions from the facility along with all other emissions in the area will not exceed the emission budget for the area, (5) specific measures to ensure compliance with the budget, (6) the submittal to EPA as a SIP revision and the SIP revision must be approved by EPA, (7) that the facility-wide budget developed and adopted in accordance with paragraph (i) of this subsection, (8) that total direct and indirect emissions from federal actions in conjunction with all other emissions subject to general conformity from the facility that do not exceed the facility budget are ''presumed to conform'' to the SIP and do not require a conformity analysis, (9) that if the total direct and indirect emissions from the federal actions in conjunction with the other emissions subject to general conformity from the facility exceed the budget adopted the action must be evaluated for conformity, (10) that if the SIP for the area includes a category for construction emissions, the negotiated budget can exempt construction emissions from further conformity analysis, and (11) that for emissions beyond the time period covered by the SIP the federal agency can demonstrate conformity with the last emission budget in the SIP, request the State to adopt an emissions budget for the action for inclusion in the SIP.

BB. In addition to those items noted in our section IV(a)(4)(AA) above, Section 3, (c)(xi)(k) ''Conformity Evaluation for Federal Installations With Facility-Wide Emission Budgets'' also revised and added new language that included requirements and provisions addressing: (1) timing of offsets and mitigation measures, (2) inter-precursor mitigation measures and offsets, and (3) early emission reduction

credit programs at federal facilities and installations subject to federal oversight.

b. Revisions to WAQSR Chapter 8, Section 5

Wyoming added a new section 5 to WAQSR Chapter 8 entitled ''Incorporation by reference''. This new section states that all Code of Federal Regulations cited in Chapter 8, including their Appendices, revised and published as of July 1, 2011, not including any later amendments, are incorporated by reference. The section continues with noting where copies for the applicable CFRs are available for public inspection or may be obtained, at cost, from the State.

EPA has reviewed Wyoming's revisions to WAQSR Chapter 8, Section 3 ''Conformity of general federal actions to state implementation plans'' and the new Section 5 ''Incorporation by reference'' and has concluded that our approval is warranted. Based on our review, we determined that the revisions to Section 3 incorporate and address the additional federal general conformity requirements that we promulgated in July of 2006 and April of 2010. In addition, the new Section 5 that incorporates relevant sections of the CFR is also acceptable. EPA is proposing approval of this Wyoming SIP revision in order to update the State's general conformity requirements for federal agencies, with applicable federal actions, and to align the State's general conformity requirements with the federal general conformity rule's requirements.

V. Consideration of Section 110(1) of the Clean Air Act

Section 110(1) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. As described above in our section IV.a.F. of this action, the changes to the Wyoming SIP would not require a conformity determination for minor new or modified stationary sources that require a permit under the NSR permitting program (Section 110(a)(2)(C) and section 173 of the CAA). The State of Wyoming indicates that SIP permitting regulations prevent the State from issuing a permit if the facility would prevent the attainment or maintenance of any ambient air quality standard (''the proposed facility will not prevent the attainment or maintenance of any ambient air quality standard'' WAQRS Chapter 6, Section 2(c)(ii)). Therefore, EPA proposes to find that these SIP general conformity minor stationary source permit provisions are adequate to ensure that this SIP revision will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

VI. Proposed Action

EPA is proposing approval of the December 21, 2012 submitted SIP revisions to Wyoming's WAQSR Chapter 8, Section 3 ''Conformity of general federal actions to state implementation plans'' and Section 5 ''Incorporation by reference''. These revisions incorporate and address the federal general conformity rule requirements that were promulgated on July 17, 2006 and April 5, 2010. EPA is proposing approval of this Wyoming SIP revision submittal in order to update the State's general conformity requirements for federal agencies, with applicable federal actions, and to align the State's general conformity requirements with the federal general conformity rule's requirements.

VII. 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, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, and Reporting, recordkeeping requirements, Sulfur oxides, and Volatile organic compounds.

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

Dated: April 23, 2013.

Judith Wong,

Acting Regional Administrator, Region 8.

[FR Doc. 2013–10819 Filed 5–6–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2008–0633; FRL–9809–5]

Approval and Promulgation of Implementation Plans; Arkansas; Interstate Transport of Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve portions of State Implementation Plan (SIP) submittals from the State of Arkansas to address Clean Air Act (CAA or Act) requirements that prohibit air

emissions which will contribute significantly to nonattainment or interfere with maintenance in any other state for the 1997 and 2006 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). EPA proposes to determine that the existing SIP for Arkansas contains adequate provisions to prohibit air emissions from significantly contributing to nonattainment or interfering with maintenance of the 1997 annual and 24-hour $PM_{2.5}$ NAAQS (1997 $PM_{2.5}$ NAAQS) and the 2006 revised 24-hour $PM_{2.5}$ NAAQS (2006 $PM_{2.5}$ NAAQS) in any other state as required by section 110(a)(2)(D)(i)(I) of the Act.

DATES: Written comments must be received on or before June 6, 2013.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2008–0633, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2008–0633. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittals related to this SIP revision, and which are part of the EPA docket, are also available for public inspection at the State Air Agency listed below during official business hours by appointment: Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas, 72118–5317.

FOR FURTHER INFORMATION CONTACT: Carl Young, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–6645; email address *young.carl@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Table of Contents

I. Background

A. Interstate Transport and the $PM_{2.5}$ NAAQS

In 1997, we established new annual and 24-hour NAAQS for $PM_{2.5}$ of 15 micrograms per cubic meter ($\mu g/m^3$) and 65 $\mu g/m^3$, respectively (July 18, 1997, 62 FR 38652). In 2006, we revised the 24-hour $PM_{2.5}$ NAAQS to 35 $\mu g/m^3$ (October 17, 2006, 71 FR 6114). Section 110(a)(2)(D)(i) of the CAA identifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants with respect to a new or revised NAAQS. In this action for the state of Arkansas, we are addressing the first two elements of section 110(a)(2)(D)(i)(I) with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS.[1] The first element of section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised NAAQS contain adequate measures to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment'' of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised NAAQS prohibit any source or other type of emissions activity in the state from emitting pollutants that will ''interfere with maintenance'' of the applicable NAAQS in any other state.

[1] This proposed action does not address the two elements of the transport SIP provision (in CAA section 110(a)(2)(D)(i)(II)) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state. Previously we: (1) Partially approved and partially disapproved the portion of the December 17, 2007 Arkansas submittal demonstrating that Arkansas emissions do not interfere with measures required to protect visibility in any other state for the 1997 $PM_{2.5}$ NAAQS (March 12, 2012, 77 FR 14604) and (2) disapproved the portion of the September 16, 2009 Arkansas submittal demonstrating that Arkansas emissions do not interfere with measures required to prevent significant deterioration in any other state for the 2006 $PM_{2.5}$ NAAQS (August 20, 2012, 77 FR 50033).

B. EPA Rules Addressing Interstate Transport for the 1997 and 2006 $PM_{2.5}$ NAAQS

EPA has addressed the requirements of section 110(a)(2)(D)(i)(I) in past regulatory actions.[2] The final Cross-State Air Pollution Rule (Transport Rule) addressed the first two elements of CAA section 110(a)(2)(D)(i)(I) in the eastern United States with respect to the 2006 24-hour $PM_{2.5}$ NAAQS, the 1997 annual $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). The Transport Rule was intended to replace the earlier Clean Air Interstate Rule (CAIR) which was judicially remanded.[3] *See North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). On August 21, 2012, the U.S. Court of Appeals for the DC Circuit issued a decision to vacate the Transport Rule. *See EME Homer City Generation, L.P.* v. *E.P.A.,* 696 F.3d 7 (DC Cir. 2012). The court also ordered EPA to continue implementing CAIR in the interim. On January 24, 2013, the DC Circuit issued an order denying all petitions for rehearing. On March 29, 2013, the United States asked the Supreme Court to review the *EME Homer City* decision. In the meantime, and unless the *EME Homer City* decision is reversed or otherwise modified, EPA intends to act in accordance with the opinion in *EME Homer City.*

C. Arkansas' Submittals

On December 17, 2007, Arkansas submitted a SIP revision to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 1997 $PM_{2.5}$ NAAQS. The submittal stated that the State met the requirements relating to significant contribution to nonattainment or interference with maintenance in another state for the 1997 $PM_{2.5}$ NAAQS based on CAIR and associated air quality modeling performed by EPA. The submittal also noted that Arkansas was not included in CAIR to address $PM_{2.5}$. A September 16, 2009, submission stated that the SIP meets the requirements of CAA section 110(a)(2), including 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS. On March 20, 2013, the State submitted a letter to EPA serving as a technical supplement for the 2006 $PM_{2.5}$ NAAQS. The letter stated that because the more recent and improved air quality modeling evaluating interstate transport for the 2006 $PM_{2.5}$ NAAQS conducted by EPA for the Transport Rule is now available and supports the conclusion that emissions in Arkansas do not significantly contribute to nonattainment or interfere with maintenance of the 2006 $PM_{2.5}$ NAAQS in any other State, it was being submitted as the basis for the conclusions in lieu of the previous technical information provided in the September 16, 2009 submission. The submittals and technical supplement document the State's assessments that Arkansas emissions will not contribute significantly to nonattainment, or interfere with maintenance, in any other state for the 1997 and 2006 $PM_{2.5}$ NAAQS. The submittals and technical supplement are available electronically through the *www.regulations.gov* Web site (Docket No. EPA–R06–OAR–2008–0633).

II. EPA's Evaluation

A. EPA's Approach for Evaluating Interstate Transport of Air Pollution

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirement is satisfied, EPA must determine whether a state's emissions contribute significantly to nonattainment or interfere with maintenance in downwind areas. If this factual finding is in the negative, then section 110(a)(2)(D)(i)(I) does not require any changes to a state's SIP. EPA is proposing to determine that the existing SIP for Arkansas is adequate to satisfy the requirements of 110(a)(2)(D)(i)(I) of the CAA to address interstate transport requirements with regard to the 1997 and 2006 $PM_{2.5}$ NAAQS. This proposed conclusion is based on air quality modeling originally conducted by EPA to quantify each individual eastern state's (including Arkansas') contributions to downwind nonattainment and maintenance areas during the rulemaking process for the Transport Rule.

In the Transport Rule rulemaking (proposal and final) process, EPA explained how nonattainment and maintenance receptors would be defined such that contribution to nonattainment and maintenance receptors could be evaluated.[4] EPA first identified nonattainment receptors and maintenance receptors, which are all monitoring sites that had $PM_{2.5}$ design values above the level of the 1997 annual $PM_{2.5}$ NAAQS (15 $\mu g/m^3$) and 2006 24-hour $PM_{2.5}$ NAAQS (35 $\mu g/m^3$) for certain analytic years. Then EPA prepared a 2005 emissions inventory which was the most recent year that EPA had a complete national inventory at that time. In the Transport Rule analysis, EPA also projected the inventory for the future year analysis for evaluating the culpability of interstate transport impacts.[5] The air quality modeling conducted for the Transport Rule then evaluated interstate contributions from emissions in upwind states to downwind nonattainment and maintenance receptors for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. Please see the Air Quality Modeling Final Rule Technical Support Document, June 2011(Air Quality Modeling TSD) for the Transport Rule. Appendix D of this TSD details Arkansas' contribution data for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS for all downwind receptors.

EPA then used air quality thresholds to identify linkages between upwind states and downwind nonattainment and maintenance receptors. As detailed in EPA's Air Quality Modeling TSDs, EPA used a threshold of 1% of the NAAQS to identify these linkages. Our analysis for the Transport Rule found that the 1 percent threshold captures a high percentage of the total pollution transport affecting downwind states for $PM_{2.5}$.[6] The air quality thresholds were therefore calculated as 1 percent of the NAAQS, which is 0.15 $\mu g/m^3$ for 1997 annual $PM_{2.5}$ NAAQS and 0.35 $\mu g/m^3$ for 2006 24-hour $PM_{2.5}$. EPA found states projected to exceed this air quality threshold at one or more downwind nonattainment receptors emissions to be linked to all such receptors, and therefore subject to further evaluation. EPA did not conduct further evaluation of emissions from states that were not linked to any downwind receptors.

The methodology and modeling used to analyze the impact of emissions from Arkansas and to identify potential linkages between Arkansas and downwind nonattainment and maintenance receptors with respect to

[2] *See* NO_x SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

[3] CAIR addressed the 1997 annual and 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour $PM_{2.5}$ NAAQS.

[4] For our definition of both nonattainment and maintenance receptors see the Technical Support Documents for the final Transport Rule, including the ''Technical Support Document (TSD) for the Transport Rule—Air Quality Modeling'', (the proposal TSD) June 2010, and the ''Air Quality Modeling Final Rule Technical Support Document'', (Air Quality Modeling TSD) June 2011 (Docket No. EPA–HQ–OAR–2009–0491, Document Nos. EPA–HQ–OAR–2009–0491–0047 and EPA–HQ–OAR–2009–0491–4140).

[5] *See Id.;* Emissions Inventory Final Rule TSD, June 28, 2011. (Docket ID No. EPA–HQ–OAR–2009–0491, Document No. EPA–HQ–OAR–2009–0491–4522).

[6] See section IV.F (Analysis of Contributions Captured by Various Thresholds) of the Air Quality Modeling TSD.

the 1997 and 2006 $PM_{2.5}$ NAAQS is described in further detail in the Air Quality Modeling TSDs. These documents can be found both in the electronic docket for the Transport Rule and the electronic docket for this action, and is available through the *www.regulations.gov* Web site.

B. Evaluation of the State's Submittals

EPA's evaluation confirms Arkansas' analysis provided in portions of the SIP submittals for the State of Arkansas submitted on December 17, 2007, and September 16, 2009, and the technical supplement submitted on March 20, 2013. The air quality modeling performed for the Transport Rule found that the impact from Arkansas emissions on both downwind nonattainment and maintenance receptors was less than the 1 percent threshold for both the 1997 and the 2006 $PM_{2.5}$ NAAQS. EPA therefore did not find emissions from Arkansas linked to any downwind nonattainment or maintenance receptors for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA incorporates by reference into the docket for this action all of the technical information in the record for the proposed and final Transport Rule regarding the impact of emissions from Arkansas on both downwind nonattainment and maintenance receptors.

Below is a summary of the air quality modeling results for Arkansas from Tables IV–8 and IV–9 of EPA's Air Quality Modeling TSD regarding Arkansas's largest contribution to both downwind $PM_{2.5}$ nonattainment and maintenance areas.

ARKANSAS' LARGEST CONTRIBUTION TO DOWNWIND $PM_{2.5}$ NONATTAINMENT AND MAINTENANCE AREAS

NAAQS	Air quality threshold ($\mu g/m^3$)	Largest downwind contribution to nonattainment ($\mu g/m^3$)	Largest downwind contribution to maintenance ($\mu g/m^3$)
1997 annual $PM_{2.5}$ NAAQS (15 $\mu g/m^3$)	0.15	0.10	0.04
2006 24-hour $PM_{2.5}$ NAAQS (35 $\mu g/m^3$)	0.35	0.24	0.23

Based on this analysis, we propose to approve the portions of the December 17, 2007 and September 16, 2009 Arkansas SIP submittals, and the technical supplement submitted on March 20, 2013, determining that the existing SIP for Arkansas contains adequate provisions to prohibit air emissions from contributing significantly to nonattainment or interfering with maintenance of the 1997 and 2006 $PM_{2.5}$ NAAQS in any other state as required by CAA section 110(a)(2)(D)(i)(I).[7]

We believe it is appropriate to rely on the Transport Rule modeling even with the *EME Homer City* opinion vacating the rule. *EME Homer City Generation L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012).[8] Nothing in the *EME Homer City* opinion suggests that the air quality modeling on which our proposal relies is flawed or invalid for any reason. In addition, nothing in that opinion undermines or calls into question our proposed conclusion that, because emissions from Arkansas do not contribute more than one percent of the 1997 and 2006 $PM_{2.5}$ NAAQS to any downwind area with nonattainment or maintenance problems, Arkansas does not contribute significantly to nonattainment or interfere with maintenance in another state for these NAAQS. Further, EPA is not proposing to rely on any requirements of the Transport Rule or emission reductions associated with that rule to support its conclusion that Arkansas has met its 110(a)(2)(D)(i)(I) obligations with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS.

C. Section 110(l) of the Act

Section 110(l) of the Act prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. The SIP submittals from the State of Arkansas contain no new regulatory provisions and do not affect any requirement in Arkansas' applicable implementation plan. Therefore, the submissions do not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. EPA has concluded, based on Arkansas' and EPA's technical analysis, that the existing Arkansas SIP is sufficient to meet the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS.

III. Proposed Action

We are proposing to approve portions of SIP submittals for the State of Arkansas submitted on December 17, 2007, and September 16, 2009, and the technical supplement submitted on March 20, 2013, to address interstate transport for the 1997 and 2006 $PM_{2.5}$ NAAQS. Based on our evaluation we propose to approve the portions of the SIP submittals determining the existing SIP for Arkansas contains adequate provisions to prohibit air emissions from contributing significantly to nonattainment or interfering with maintenance of the 1997 and 2006 $PM_{2.5}$ NAAQS in any other state as required by CAA section 110(a)(2)(D)(i)(I). This action is being taken under section 110 of the Act.

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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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.*);

[7] The form of the 1997 24-hour and the 2006 24-hour $PM_{2.5}$ NAAQS utilize the same methodology in determining the design value. Because the 2006 24-hour $PM_{2.5}$ NAAQS is lower and more protective than the 1997 24-hour $PM_{2.5}$ NAAQS, (35 $\mu g/m^3$ compared with 65 $\mu g/m^3$), addressing the more stringent 2006 24-hour $PM_{2.5}$ NAAQS ensures that the 1997 24-hour NAAQS is also protected. Thus, we can rely upon the 1 percent threshold analysis used for the Transport Rule to evaluate both the 1997 and 2006 24-hour NAAQS.

[8] On March 29, 2013, EPA filed a petition asking the Supreme Court to review the *EME Homer City* decision.

• 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, 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: April 24, 2013.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2013–10689 Filed 5–6–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 13–39; DA 13–780]

Rural Call Completion and List of Rural Operating Carrier Numbers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission's Wireline Competition Bureau announces the comment filing deadlines in its proposed rulemaking proceeding on rural call completion problems and seeks comment on the completeness and suitability of a currently available list of rural Operating Carrier Numbers as a template for the reporting requirements proposed in the Rural Call Completion Notice of Proposed Rulemaking.

DATES: Comments are due on or before May 13, 2013 and reply comments are due on or before May 28, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by WC Docket No. 13–39, by any of the following methods:

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

• *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Steve Rowings, Wireline Competition Bureau, (202) 418–1033 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice in WC Docket No. 13–39, DA 13–780, released April 18, 2013. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. These documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

On February 7, 2013, the Commission released a Notice of Proposed Rulemaking (NPRM) seeking comment on steps the Commission should take to help address problems in the completion of long-distance telephone calls to rural customers.

The Commission set the comment and reply comment deadlines for the NPRM as 30 and 45 days, respectively, after publication of the summary of the NPRM in the **Federal Register.** On April 12, 2013, a summary of the NPRM appeared in the **Federal Register**. Accordingly, interested parties may file comments on or before May 13, 2013, and reply comments on or before May 28, 2013. All pleadings are to reference WC Docket No. 13–39.

In the NPRM, the Commission proposed rules that would require that originating long-distance providers submit in electronic form the monthly call answer rate for rural operating carrier numbers (OCNs) with 100 attempts or more and the nonrural monthly overall average to the Commission once per calendar quarter. The Commission would specify an electronic template for this reporting requirement with a list of rural OCNs. The National Exchange Carrier Association, Inc. (NECA) provides a list of rural OCNs on its Web site, at the following link: *http://www.neca.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8874&libID=8894.* The Bureau invites comment on the completeness of NECA's list, and whether it would be suitable for the Commission to use this list upon the adoption of the rules proposed in the NPRM.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties

may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200 *through 1.1216.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

William Dever,

Chief, Competition Policy Division.

[FR Doc. 2013–10687 Filed 5–6–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 28, and 52

[FAR Case 2011–023; Docket 2011–0023; Sequence 1]

RIN 9000–AM53

Federal Acquisition Regulation; Irrevocable Letters of Credit

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to remove all references to Office of Federal Procurement Policy (OFPP) Pamphlet No. 7, Use of Irrevocable Letters of Credit, and also provide updated sources of data required to verify the credit worthiness of a financial entity issuing or confirming an irrevocable letter of credit (ILC).

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before July 8, 2013 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2011–023 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2011–023.'' Select the link ''Submit a Comment'' that corresponds with ''FAR Case 2011–023.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FAR Case 2011–023'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FAR Case 2011–023, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2011–023.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to remove all references to OFPP Pamphlet No. 7, Use of Irrevocable Letters of Credit, and provide updated sources of data required to verify the credit worthiness of a financial entity issuing or confirming an ILC.

OFPP Pamphlet No. 7 provided detailed guidance for implementing policy letter 91–4, Use of Irrevocable Letters of Credit (ILC), for Government

contracts. A prior FAR final rule (FAR Case 2000–605, Rescission of Office of Federal Procurement Policy Letters, 65 FR 36014) removed the FAR references to OFPP Policy Letter 91–4 along with several other policy letters that were rescinded by OFPP, effective March 30, 2000 (see 65 FR 16968). However, the reference to OFPP Pamphlet No. 7 remained in FAR Part 28 because the information was considered relevant and provided, among other information, a listing of available quantitative and qualitative credit rating institutions and resources, formats for ILCs, and other useful data.

FAR 28.204–3 currently cites OFPP Pamphlet No. 7 at subparagraphs (g)(1) and (h)(1) as an available resource that may be used to obtain information on credit rating services or investment grade ratings of financial entities issuing or confirming ILCs because it provides overarching policy and specific guidance on the use of ILCs, but some of the information is outdated. Therefore, instead of referencing the OFPP Pamphlet, this rule proposes to—

(1) Extract from the OFPP Pamphlet the relevant and current information for inclusion in the FAR; and

(2) Provide additional sources of data required to verify the credit worthiness of a financial entity issuing or confirming an ILC, as summarized on the Web sites of the Federal Deposit Insurance Corporation (*http://www2.fdic.gov/idasp/index.asp*) and Securities and Exchange Commission (*http://www.sec.gov/answers/nsro.htm*).

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule only removes references to OFPP Pamphlet No. 7 in FAR Part 28 and replaces these references with information relative to sources of data required to verify the credit worthiness of a financial entity offering an ILC. Nevertheless, an Initial Regulatory Flexibility Analysis has been performed, and is summarized as follows:

This action is necessary to remove a reference to OFPP Pamphlet No. 7, Use of Irrevocable Letters of Credit, and provide updated sources of data required to verify credit worthiness of a financial entity issuing or confirming an ILC.

The objective of the rule is to provide up-to-date and readily available information on requirements regarding credit rating for the financial institution issuing or confirming an ILC.

This will apply to all contracts for services, supplies, or construction, when a bid guarantee or performance and payment bonds are required. 40 U.S.C. 3131 requires performance and payment bonds for any construction contract exceeding $100,000; this was raised for inflation to $150,000 (see FAR 1.109). Any person required to furnish a bond has the option to furnish a bond secured by an ILC. For construction contracts valued at $30,000 to $150,000, alternative payment protection is required, which may involve an ILC. Generally, agencies do not require bonds for other than construction contracts. According to data from the Federal Procurement Data System, in FY 2011 there were about 58,000 new awards for construction and construction maintenance, of which 41,000 were awarded to small businesses (about 70 percent). If we estimate that 10 percent of these awards involve an ILC, then this rule applies to approximately 4,100 small businesses.

The rule only removes references to OFPP Pamphlet No. 7 and replaces these references with information relative to sources of data required to verify an ILC that generally replicates what was in the pamphlet. There are no new reporting, recordkeeping, or compliance requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

No significant alternatives to the rule were identified that would accomplish the objectives of the rule. We do not foresee any significant economic impact of the rule on small entities. The basic requirements remain unchanged; the requirements of the pamphlet are directly stated, some of the references have been updated, and a Web site provided for access to a list of Nationally Recognized Statistical Rating Organizations.

DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR case 2011–023) in correspondence.

IV. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). However, there is a pre-existing requirement at FAR 52.228–14 for offerors/contractors to provide the contracting officer a credit rating that indicates the financial institutions have the required credit rating as of the date of issuance of the ILC. OMB Control Number 9000–0045, titled: Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections, covers the information collection requirements associated with alternative payment protections (including ILCs) and acceptable security for bonds (including ILCs). ILCs are seldom offered as alternative payment protection or security for a bid bond, performance bond, or payment bond. The negligible burden of providing a credit rating along with the required ILC is already sufficiently covered by the approved burden hours in 9000–0045.

List of Subjects in 48 CFR Parts 1, 28, and 52

Government procurement.

Dated: April 25, 2013.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 28, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory text, by adding in numerical sequence, FAR segment ''52.228–14'' and its corresponding OMB Control No. ''9000–0045''.

PART 28—BONDS AND INSURANCE

■ 3. The authority citation for 48 CFR part 28 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 4. Amend section 28.204–3 by revising the section heading and paragraphs (a), (g), and (h) to read as follows:

28.204–3 Irrecovable Letter of Credit.

(a) Any person required to furnish a bond has the option to furnish a bond secured by an irrevocable letter of credit (ILC) in an amount equal to the penal sum required to be secured (see 28.204). A separate ILC is required for each bond.

* * * * *

(g) Only federally insured financial institutions rated investment grade shall issue or confirm the ILC. Unless the financial institution issuing the ILC had letter of credit business of at least $25 million in the past year, ILCs over $5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least $25 million in the past year.

(1) The offeror/contractor is required by paragraph (d) of the clause at 52.228–14, Irrevocable Letter of Credit, to provide the contracting officer a credit rating from a recognized commercial rating service that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC.

(2) To support the credit rating of the financial institution(s) issuing or confirming the ILC, the contracting officer shall verify the following information:

(i) *Federal insurance.* Each financial institution is federally insured. Verification of federal insurance is available through the Federal Deposit Insurance Corporation (FDIC) institution directory at the Web site *http://www2.fdic.gov/idasp/index.asp.*

(ii) *Current credit rating.* The current credit rating for each financial institution is investment grade and that the credit rating is a Nationally Recognized Statistical Rating Organization (NRSRO). NRSROs can be located at the Web site *http://www.sec.gov/answers/nrsro.htm* maintained by the SEC.

(3) The rating services listed in the Web site above use different rating scales (*e.g.,* AAA, AA, A, BBB, BB, B, CCC, CC, C, and D; or Aaa, Aa, A, Baa, Ba, B, Caa, Ca, and C) to provide evaluations of institutional credit risk; however, all such systems specify the range of investment grade ratings (*e.g.,* BBB-AAA or Baa-Aaa in the above examples) and permit evaluation of the relative risk associated with a specific institution. If the contracting officer learns that a financial institution's rating has dropped below investment grade level, the contracting officer shall give the contractor 30 days to substitute an acceptable ILC or shall draw on the ILC using the sight draft in paragraph (g) of the clause at 52.228–14.

(h) A copy of the Uniform Customs and Practice (UCP) for Documentary Credits, 2006 Edition, International Chamber of Commerce Publication No. 600, is available from: ICC Books USA, 1212 Avenue of the Americas, 21st Floor, New York, NY 10036, Phone: 212–703–5066, Fax: 212–391–6568, E-Mail: *iccbooks@uscib.org,* Via the Internet at: *http://store.iccbooksusa.net.*

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 52.228–14 by revising the date of the clause and paragraphs (d), (e)(5), and (f)(5) to be read as follows:

52.228–14 Irrevocable Letter of Credit.

* * * * *

Irrevocable Letter of Credit (Date)

* * * * *

(d)(1) Only federally insured financial institutions rated investment grade by a commercial rating service shall issue or confirm the ILC.

(2) Unless the financial institution issuing the ILC had letter of credit business of at least $25 million in the past year, ILCs over $5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least $25 million in the past year.

(3) The offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institutions have the required credit rating as of the date of issuance of the ILC.

(4) The current rating for a financial institution is available through any of the following rating services registered with the U.S. Securities and Exchange Commission (SEC) as a Nationally Recognized Statistical Rating Organization (NRSRO). NRSRO's can be located at the Web site *http://www.sec.gov/answers/nsro.htm* maintained by the SEC.

(e) * * *

5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, International Chamber of Commerce Publication No. _____ (*Insert version in effect at the time of ILC issuance, e.g., ''Publication 600, 2006 edition''*) and to the extent not inconsistent therewith, to the laws of _____ State of confirming financial institution, if any, otherwise State of issuing financial institution.

* * * * *

(f) * * *

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, International Chamber of Commerce Publication No. _____ (*Insert version in effect at the time of ILC issuance, e.g., ''Publication 600, 2006 edition''*) and to the extent not inconsistent therewith, to the laws of _____ State of confirming financial institution.

* * * * *

[FR Doc. 2013–10211 Filed 5–6–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 390

[Docket No. FMCSA–2012–0156]

RIN 2126–AB53

Gross Combination Weight Rating; Definition

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM), request for comments.

SUMMARY: The FMCSA proposes to revise the definition of ''gross combination weight rating'' (or GCWR) to clarify that a GCWR is the greater of: the GCWR specified by the manufacturer of the power unit, if displayed on the Federal Motor Vehicle Safety Standard (FMVSS) certification label required by the National Highway Traffic Safety Administration (NHTSA), or the sum of the gross vehicle weight ratings (GVWRs) or gross vehicle weights (GVWs) of the power unit and towed unit(s), or any combination thereof, that produces the highest value.

DATES: You may submit comments by July 8, 2013.

ADDRESSES: Comments to the rulemaking docket should refer to Docket ID Number FMCSA–2012–0156 or RIN 2126–AB53, and be submitted to the Administrator, Federal Motor Carrier Safety Administration using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section

below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Siekmann, Office of Enforcement, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at (202) 493–0442 or via email at *Garry.Siekmann@dot.gov.* FMCSA office hours are from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Barbara Hairston, Acting Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

FMCSA invites you to participate in this rulemaking by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2012–0156), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and click on the ''Submit a Comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu, select ''Rules,'' insert ''FMCSA–2012–0156'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and click on the ''Read Comments'' box in the upper right hand side of the screen. Then, in the ''Keyword'' box insert ''FMCSA–2012–0156'' and click ''Search.'' Next, click the ''Open Docket Folder'' in the ''Actions'' column. Finally, in the ''Title'' column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act

All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you provide. 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 of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

II. Executive Summary

Purpose and Summary of the Major Provisions

FMCSA proposes to clarify the applicability and enforceability of the safety regulations by redefining GCWR. This proposed rule would provide a uniform means for motor carriers, drivers, and enforcement officials to determine whether a driver operating a combination vehicle that does not display a GCWR is subject to the commercial driver's license (CDL) requirements (49 CFR part 383) or the general safety requirements (49 CFR part 390). This proposed rule also responds to adverse comments from the direct final rule (DFR) published on August 27, 2012 (77 FR 51706). The DFR was initiated in reply to a petition filed by the Commercial Vehicle Safety Alliance (CVSA) on February 12, 2008, seeking changes in the definitions of ''commercial motor vehicle'' (CMV) and ''gross combination weight rating.''

Benefits and Costs

While this rule may affect some carriers and drivers not currently subject to some or all of the Federal Motor Carrier Safety Regulations (FMCSRs), the Agency is unable to quantify this effect at this time. This rulemaking only clarifies the definition of GCWR to eliminate confusion surrounding the language of the existing definition and long-standing enforcement practices. The rule will provide clear objective criteria for determining the applicability of the FMCSRs when the GCWR is the deciding factor. The cost, if any, would be borne by motor carriers and drivers that had previously determined by reference to the GCWR wording that their operations were not subject to certain safety regulations, but that would now be required to achieve compliance with the applicable rules.

III. Legal Basis for the Rulemaking

This NPRM is based on the authority of the Motor Carrier Act of 1935 (1935 Act) and the Motor Carrier Safety Act of 1984 (MCSA or 1984 Act), both of which provide broad discretion to the Secretary of Transportation (Secretary) in implementing their provisions. In addition this NPRM is based on broad authority from the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) [49 U.S.C. Chapter 313].

The 1935 Act provides that the Secretary may prescribe requirements for (1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier [49 U.S.C. 31502(b)(1)], and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation [49 U.S.C. 31502(b)(2)]. These proposed amendments are based on the Secretary's authority to regulate the safety and standards of equipment of for-hire and private carriers.

The 1984 Act gives the Secretary concurrent authority to regulate drivers, motor carriers, and vehicle equipment [49 U.S.C. 31136(a)]. Section 31136(a) requires the Secretary to publish regulations on CMV safety. Specifically, the Act sets forth minimum safety standards to ensure that (1) CMVs are maintained, equipped, loaded, and

operated safely [49 U.S.C. 31136(a)(1)]; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely [49 U.S.C. 31136(a)(2)]; (3) the physical condition of CMV operators is adequate to enable them to operate the vehicles safely [49 U.S.C. 31136(a)(3)]; and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators [49 U.S.C. 31136(a)(4)]. Section 32911 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) [Pub. L. 112–141, 126 Stat. 405, 818, July 6, 2012] enacted a fifth requirement, i.e., that the regulations ensure that ''(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 [Transportation of Hazardous Material] or chapter 313 [Commercial Motor Vehicle Operators] of this title'' [49 U.S.C. 31136(a)(5)].

The proposed rule would clarify the applicability and enforceability of the safety regulations when the original equipment manufacturer does not provide the (optional) GCWR information on the (required) NHTSA certification label. This rulemaking would give motor carriers and the drivers they employ a practical means of determining whether a particular combination vehicle is subject to the Federal safety regulations concerning licensing, equipment, and inspection, repair and maintenance, consistent with 49 U.S.C. 31136(a)(1). The regulatory language would also result in consistent application of the rules by Federal and State enforcement personnel. The rule would not address the responsibilities or physical condition of drivers covered by 49 U.S.C. 31136(a)(2) and (3), respectively, and would deal with 49 U.S.C. 31136(a)(4) only to the extent that a vehicle operated in accordance with the safety regulations is less likely to have a deleterious effect on the physical condition of a driver. Before prescribing any such regulations, however, FMCSA must consider the ''costs and benefits'' of any proposal (49 U.S.C. 31136(c)(2)(A) and 31502(d)).

With regard to 49 U.S.C. 31136(a)(5), this rulemaking would not change the long-standing prohibitions and penalties against operating a CMV, as defined either in 49 CFR 383.5 or 49 CFR 390.5, without complying with applicable requirements. Among other things, motor carriers are currently prohibited from using unqualified CMV drivers, and unqualified drivers are currently prohibited from operating CMVs. This rule would have only a limited effect on the risk of driver coercion by motor carriers, shippers, receivers, or transportation intermediaries. The rule would enable drivers and the entities that are in a position to coerce drivers into violating the FMCSRs, to determine with a greater degree of certainty whether particular vehicle configurations meet either of the CMV definitions under 49 CFR parts 383 or 390. This rule would help eliminate differences of opinion between drivers and other entities regarding the applicability of the rules and previously published guidance. As a result, entities in a position to coerce drivers to operate in violation of the commercial driver's license (CDL) requirements (49 CFR part 383), or transportation that would be subject to the requirements under 49 CFR parts 390–399, would either ensure each of their decisions is consistent with the rules or be unable to avoid the fact that any decision inconsistent with the rules represents an act of coercion.

This rulemaking is also based on the broad authority of the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) [49 U.S.C. chapter 313]. The CMVSA required the Secretary of Transportation, after consultation with the States, to prescribe regulations on minimum uniform standards for the issuance of CDLs by the States and for information to be contained on each license (49 U.S.C. 31305, 31308). This proposed rule would provide a uniform means for motor carriers, drivers, and enforcement officials to determine whether a driver operating a combination vehicle that does not display a GCWR is subject to the CDL requirements.

IV. Background

The term ''commercial motor vehicle'' (CMV) is defined differently in 49 CFR 383.5 and 390.5, as required by the underlying statutes (the CMVSA and the MCSA, respectively). Both regulatory definitions, however, like their statutory equivalents, depend (in part) on the GVWR or GVW, whichever is greater, to determine whether a single-unit vehicle is a CMV for purposes of the relevant safety regulations. Although neither the MCSA nor the CMVSA referred explicitly to combination vehicles, Congress clearly did not intend to exempt this huge population of vehicles from the safety regulations applicable to CMVs. FMCSA therefore adapted the statutory language used for single-unit vehicles to combination vehicles, substituting GCWR or gross combination weight (GCW), whichever is greater, for GVWR or GVW.[1] Because GVW and GCW are used in the regulatory definition of CMV in parts 383 and 390, enforcement officials and motor carriers may determine the applicability of the safety regulations simply by weighing the vehicles. In many situations, however, scales are not readily available. That deficiency increases the importance of correctly determining the GCWR as an alternate means of deciding whether a combination is a CMV. Drivers, carriers and enforcement officials should not have to search manufacturers' product literature for the GCWR or FMCSA's Web site or commercial publications for regulatory guidance. Instead, they should be able to rely on codified regulations that are accessible and easy to understand and implement.

As FMCSA and its State partners increase their monitoring of drivers and motor carriers through roadside inspections and other enforcement interventions, industry officials and the enforcement community have raised questions about the inconsistency between the GCWR definitions used by FMCSA and NHTSA. The following sentence is part of the GCWR definition in 49 CFR 383.5 and 390.5, but not in 49 CFR 571.3: ''In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.'' This alternative means of determining GCWR is not practical when scales are not available, however.

On February 12, 2008, the CVSA petitioned FMCSA to change the definitions of CMV and GCWR as these definitions are proving problematic for inspectors and industry when determining what is considered to be a CMV and when a CDL is required. The Agency granted the petition on August 18, 2011, and agreed to initiate a rulemaking. On August 27, 2012, FMCSA published a DFR, with a request for public comment, amending the definition of GCWR by removing the sentence mentioned above (77 FR 51706). The FMCSA received comments from: Bryce Baker; David S. McQueen; Dennis Eric Murphy; and, John F. Nowak.

[1] *Gross combination weight rating* (GCWR) means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR parts 383.5 and 390.5)

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle. (49 CFR parts 383.5 and 390.5)

V. Discussion of Comments

In response to the DFR, Mr. Bryce Baker of the Illinois Truck Enforcement Association stated that the GCWR definition is relevant only for determining the applicability of Class-A CDLs. Mr. Baker noted that the current definition is problematic for two reasons. First, manufacturers do not list GCWR on the vehicle certification label required by NHTSA; instead, they list the vehicle's maximum towing capacity. Even under the DFR definition, he argued, this makes it impossible to determine whether a driver needs a Class-A CDL. Second, Mr. Baker indicated that only manufacturers have information on the GCWR, and that obtaining it requires significant time and makes enforcement ''fruitless.''

Mr. John F. Nowak commented that the definition of GCWR should not be changed until GCWRs are readily available to law enforcement, motor carriers, and drivers. Mr. Nowak believes that NHTSA rules should be amended to require the manufacturer to include a GCWR in addition to the GVWR. Mr. Nowak believes it is unclear as to how citations are supposed to be issued when the GCWR cannot be established and how this fact will impact motor carriers' safety ratings or Safety Measurement System (SMS) scores. He suggested not citing carriers and/or drivers for failing to provide the GCWR and that the GCWR definition should not be changed until information on this rating is available and accessible to law enforcement.

Mr. David S. McQueen questioned the benefit of the rule in the absence of a requirement for the GCWR to be displayed on the vehicle. In that regard, he suggested that manufacturers would not be able to predict what combinations would be used by motor carriers on any given day.

Mr. Dennis Eric Murphy stated that he agreed with the other commenters' views that the GCWR should be marked on the truck in some manner. He also believes FMCSA should use the manufacturer's GCWR and prohibit motor carriers from operating vehicles loaded in excess of the GCWR. He suggests that the determination whether a vehicle meets the CMV definition should be made by adding the GVWR of the truck and trailer together.

All of these comments were deemed to be adverse responses to the DFR. Therefore, as required by 49 CFR 389.39(d), the direct final rule was withdrawn on October 29, 2012 (77 FR 65497).

VI. Discussion of Proposed Rule

FMCSA acknowledges the commenters' concerns but continues to believe that the revision outlined in the DFR has merit. The Agency therefore proposes that GCWR be re-defined as the greater of (1) the GCWR specified by the manufacturer of the power unit, if displayed on the Federal Motor Vehicle Safety Standard (FMVSS) certification label required by the National Highway Traffic Safety Administration (NHTSA), or (2) the sum of the gross vehicle weight ratings (GVWRs) or gross vehicle weights (GVWs) of the power unit and towed unit(s), or any combination thereof, that produces the highest value. For instances in which the manufacturer's GCWR indicates that the vehicle should not be subject to the safety regulations, but the sum of the GVWRs, GVWs, or the highest combination of those values, is greater than the manufacturer's GCWR, the combination would be deemed to be a CMV subject to the Federal rules.

The Agency believes this GCWR definition would provide motor carriers and enforcement officials with clear direction in determining whether a multiple-unit vehicle is a CMV when (1) the manufacturer of the power unit does not display a GCWR value on the FMVSS certification label, or (2) the GCWR is displayed but the sum of the power unit and trailer GVWRs, GVWs, or the highest combination thereof, exceeds the manufacturer's GCWR. Using the revised definition, motor carriers and enforcement officials could easily determine whether any type of single-unit or combination vehicle was a CMV. The Agency requests public comments on whether the proposed change would improve consistent application of the rules or whether other alternatives might better accomplish this objective.

In consideration of the proposed revision of the definition of GCWR in 49 CFR 383.5 and 390.5, FMCSA would withdraw regulatory guidance concerning means of determining the applicability of the Federal safety regulations. Specifically, the guidance to be withdrawn are questions 3 and 4 to 49 CFR 383.5 (April 4, 1997; 62 FR 16369, 16395), and questions 3, 4 and 11 to 49 CFR 390.5 (April 4, 1997; 62 FR 16406–16407). The text of the guidance to be withdrawn is presented below. The Agency requests public comment whether the guidance would still be needed in view of the proposed revision to the GCWR definition.

Guidance to 49 CFR 383.5

Question 3: If a vehicle's GVWR plate and/or vehicle identification number (VIN) number are missing but its actual gross weight is 26,001 pounds or more, may an enforcement officer use the latter instead of GVWR to determine the applicability of the part 383?

Guidance: Yes. The only apparent reason to remove the manufacturer's GVWR plate or VIN number is to make it impossible for roadside enforcement officers to determine the applicability of part 383, which has a GVWR threshold of 26,001 pounds. In order to frustrate willful evasion of safety regulations, an officer may therefore presume that a vehicle which does not have a manufacturer's GVWR plate and/or does not have a VIN number has a GVWR of 26,001 pounds or more if: (1) It has a size and configuration normally associated with vehicles that have a GVWR of 26,001 pounds or more; and (2) It has an actual gross weight of 26,001 pounds or more.

A motor carrier or driver may rebut the presumption by providing the enforcement officer the GVWR plate, the VIN number or other information of comparable reliability which demonstrates, or allows the officer to determine, that the GVWR of the vehicle is below the jurisdictional weight threshold.

Question 4: If a vehicle with a manufacturer's GVWR of less than 26,001 pounds has been structurally modified to carry a heavier load, may an enforcement officer use the higher actual gross weight of the vehicle, instead of the GVWR, to determine the applicability of part 383?

Guidance: Yes. The motor carrier's intent to increase the weight rating is shown by the structural modifications. When the vehicle is used to perform functions normally performed by a vehicle with a higher GVWR, § 390.33 allows an enforcement officer to treat the actual gross weight as the GVWR of the modified vehicle.

Guidance to 49 CFR 390.5

Question 3: If a vehicle's GVWR plate and/or VIN number are missing but its actual gross weight is 10,001 pounds or more, may an enforcement officer use the latter instead of GVWR to determine the applicability of the FMCSRs?

Guidance: Yes. The only apparent reason to remove the manufacturer's GVWR plate or VIN number is to make it impossible for roadside enforcement officers to determine the applicability of the FMCSRs, which have a GVWR threshold of 10,001 pounds. Therefore, an officer may therefore presume that a

vehicle which does not have a manufacturer's GVWR plate and/or does not have a VIN number has a GVWR of 10,001 pounds or more if: (1) It has a size and configuration normally associated with vehicles that have a GVWR of 10,001 pounds or more; and/or (2) It has an actual gross weight of 10,001 pounds or more.

Question 4: If a vehicle with a manufacturer's GVWR of less than 10,001 pounds has been structurally modified to carry a heavier load, may an enforcement officer use the higher actual gross weight of the vehicle, instead of the GVWR, to determine the applicability of the FMCSRs?

Guidance: Yes. The motor carrier's intent to increase the weight rating is shown by the structural modifications. When the vehicle is used to perform functions normally performed by a vehicle with a higher GVWR, § 390.33 allows an enforcement officer to treat the actual gross weight as the GVWR of the modified vehicle.

* * *

Question 11: A company has a truck with a GVWR under 10,001 pounds towing a trailer with a GVWR under 10,001 pounds. However, the GVWR of the truck added to the GVWR of the trailer is greater than 10,001 pounds. Would the company operating this vehicle in interstate commerce have to comply with the FMCSRs?

Guidance: Section 390.5 of the FMCSRs includes in the definition of CMV a vehicle with a GVWR or GCWR of 10,001 or more pounds. The section further defines GCWR as the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. Therefore, if the GVWR of the truck added to the GVWR of the trailer exceeds 10,001 pounds, the driver and vehicle are subject to the FMCSRs.

VII. Regulatory Analyses

E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA has determined that this proposed rule is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), or within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 2, 1979). While this rule may affect some carriers and drivers not currently subject to some or all of the Federal Motor Carrier Safety Regulations (FMCSRs), the Agency is unable to quantify this effect at this time. This rulemaking only clarifies the definition of GCWR to eliminate confusion surrounding the language of the existing definition and long-standing enforcement practices. The rule will provide clear objective criteria for determining the applicability of the FMCSRs when the GCWR is the deciding factor. The cost, if any, would be borne by motor carriers and drivers that had previously determined by reference to the GCWR wording that their operations were not subject to certain safety regulations, but that would now be required to achieve compliance with the applicable rules. The Agency believes this population to be negligible, and that the costs of the rule would not begin to approach the $100 million annual threshold for economic significance. Moreover, the Agency does not expect the rule to generate substantial congressional or public interest. This proposed rule therefore has not been formally reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses.

Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II, Pub. L. 104–121, 110 Stat. 857, March 29, 1996), the proposed rule is not expected to have a significant economic impact on a substantial number of small entities because the proposed rule would only clarify existing rules by providing clear objective criteria for determining the applicability of the FMCSRs when the GCWR is not included on the FMVSS certification label required by NHTSA.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA personnel listed in the **FOR FURTHER INFORMATION CONTACT** section of the proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy ensuring the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $143.1 million (which is the value of $100 million in 2010 after adjusting for inflation) or more in any 1 year.

E.O. 13132 (Federalism)

A rule has Federalism implications if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on the States. FMCSA has analyzed this proposed rule under E.O. 13132 and determined that it does not have Federalism implications.

E.O. 12988 (Civil Justice Reform)

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

E.O. 13045 (Protection of Children)

FMCSA analyzed this action under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agency determined that this proposed rule will not create an environmental risk to health or safety

that may disproportionately affect children.

E.O. 12630 (Taking of Private Property)

FMCSA reviewed this NPRM in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

Privacy Impact Assessment

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rule does not require the collection of any personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program. FMCSA has determined this proposed rule will not result in a new or revised Privacy Act System of Records for FMCSA.

E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. There is no new information collection requirement associated with this NPRM.

National Environmental Policy Act and Clean Air Act

FMCSA analyzed this proposed rule in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1 (69 FR 9680, March 1, 2004) that this action does not have any effect on the quality of the environment. Therefore, this NPRM is categorically excluded (CE) from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(b) of Appendix 2. The CE under paragraph 6(b) addresses rulemakings that make editorial or other minor amendments to existing FMCSA regulations. A Categorical Exclusion Determination is available for inspection or copying in the *Regulations.gov* Web site listed under **ADDRESSES.**

FMCSA also analyzed this proposed rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FMCSA has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

E.O. 13175 (Indian Tribal Governments)

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies.

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

List of Subjects

49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Incorporation by reference, Motor carriers.

49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

For the reasons stated above, FMCSA proposes to amend title 49, Code of Federal Regulations, chapter III, subchapter B, parts 383 and 390, as follows:

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 1. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.,* and 31502; secs. 214 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 272, 297, sec. 4140, Pub. L. 109–59, 119 Stat. 1144, 1746; and 49 CFR 1.87.

■ 2. Amend § 383.5 by revising the definition of ''gross combination weight rating'' to read as follows:

§ 383.5 Definitions.

* * * * *

Gross combination weight rating (GCWR) is the greater of:

(1) A value specified by the manufacturer of the power unit if displayed on the Federal Motor Vehicle Safety Standard (FMVSS) certification label required by the National Highway Traffic Safety Administration; or

(2) The sum of the gross vehicle weight ratings (GVWRs) or the gross vehicle weights (GVWs) of the power unit and the towed unit(s), or any combination thereof, that produces the highest value.

* * * * *

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

■ 3. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. 504, 508, 31132, 31133, 31136, 31144, 31151, and 31502; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677–1678; secs. 212, 217, and 229, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 229, Pub. L. 106–159 (as transferred by sec. 4114 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743–1744); sec. 4136, Pub. L. 109–59, 119 Stat. 114,

1745; sections 32101(d) and 34934, Pub. L. 112–141, 126 Stat. 405, 778, 830; and 49 CFR 1.87.

■ 4. Amend § 390.5 by revising the definition of ''gross combination weight rating'' to read as follows:

§ 390.5 Definitions.

* * * * *

Gross combination weight rating (GCWR) is the greater of:

(1) A value specified by the manufacturer of the power unit if displayed on the Federal Motor Vehicle Safety Standard (FMVSS) certification label required by the National Highway Traffic Safety Administration; or

(2) The sum of the gross vehicle weight ratings (GVWRs) or the gross vehicle weights (GVWs) of the power unit and the towed unit(s), or any combination thereof, that produces the highest value.

* * * * *

Issued under the authority of delegation in 49 CFR 1.87 on: April 19, 2013.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–10735 Filed 5–6–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2012–0065; FWS–R3–ES–2013–0016; 4500030113]

RIN 1018–AY16; 1018–AZ41

Endangered and Threatened Wildlife and Plants; Listing and Designation of Critical Habitat for the Grotto Sculpin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the September 27, 2012, proposed endangered status and designation of critical habitat for the grotto sculpin under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis (DEA) of the proposed designation of critical habitat for the grotto sculpin and an amended required determinations section of the proposal. In addition, we announce our intention to recognize the grotto sculpin as *Cottus specus.* We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated DEA, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: We will consider comments received or postmarked on or before June 6, 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.

ADDRESSES:

Document availability: You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R3–ES–2012–0065 and copies of the draft economic analysis at Docket No. FWS–R3–ES–2013–0016, or by mail from the Missouri Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Submit comments on the listing proposal to Docket No. FWS–R3–ES–2012–0065, and submit comments on the critical habitat proposal and associated draft economic analysis to Docket No. FWS–R3–ES–2013–0016. See **SUPPLEMENTARY INFORMATION** for an explanation of the two dockets.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R3–ES–2012–0065 (for the listing proposal) or FWS–R3–ES–2013–0016 (for the critical habitat proposal and associated draft economic analysis); 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 only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Amy Salveter, Field Supervisor, U.S. Fish and Wildlife Service, Missouri Ecological Services Field Office, 101 Park De Ville Drive, Suite A, Columbia, MO 65203; by telephone 573–234–2132; or by facsimile 573–234–2181. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for the grotto sculpin that was published in the **Federal Register** on September 27, 2012 (77 FR 59488), our DEA of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are also notifying the public that we will publish two separate rules for the final listing determination and the final critical habitat determination for the grotto sculpin. The final listing rule will publish under the existing Docket No. FWS–R3–ES–2012–0065 and the final critical habitat designation will publish under Docket No. FWS–R3–ES–2013–0016.

We request that you specifically provide comments on our listing determination under Docket No. FWS–R3–ES–2012–0065. We are particularly interested in comments concerning:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this

species, including the locations of any additional populations of this species.

We request that you provide comments specifically on the critical habitat designation and related draft economic analysis under Docket No. FWS–R3–ES–2013–0016. We are particularly interested in comments concerning:

(5) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threats outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(6) Specific information on:

(a) The amount and distribution of grotto sculpin and its habitat;

(b) What may constitute ''physical or biological features essential to the conservation of the species,'' within the geographical range currently occupied by the species;

(c) Where these features are currently found;

(d) Whether any of these features may require special management considerations or protection;

(e) What areas, that were occupied at the time of listing (or are currently occupied) and that contain features essential to the conservation of the species, should be included in the designation and why; and

(f) What areas not occupied at the time of listing are essential for the conservation of the species and why.

(7) Land use designations and current or planned activities in the areas occupied by the species or proposed to be designated as critical habitat, and possible impacts of these activities on this species and proposed critical habitat.

(8) Information on the projected and reasonably likely impacts of climate change on the grotto sculpin and proposed critical habitat.

(9) Any foreseeable economic, national security, or other relevant impacts that may result from designating any area that may be included in the final designation. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas from the proposed designation that are subject to these impacts.

(10) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

(11) The development and implementation of a conservation strategy by citizens, landowners, business entities, and government of Perry County, Missouri, for the grotto sculpin.

(12) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the DEA, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(13) Information on the extent to which the description of economic impacts in the DEA is complete and accurate.

(14) Information indicating that the potential impact to small business entities under our analysis of the Regulatory Flexibility Act in the DEA is complete and accurate.

If you submitted comments or information on the proposed rule (77 FR 59488) during the initial comment period from September 27, 2012, to November 26, 2012, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final determination. Our final determination concerning critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the proposed rule or DEA by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, supporting documentation we used in preparing the proposed rule and DEA, the proposed rule, and the DEA will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R3–ES–2012–0065 or Docket No. FWS–R3–ES–2012–0065, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Missouri Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for the grotto sculpin in this document. For more information on the grotto sculpin, its habitat, or previous Federal actions for the species, refer to the proposed rule published in the **Federal Register** on September 27, 2012 (77 FR 59488), which is available online at *http://www.regulations.gov* (at Docket Number FWS–R3–ES–2012–0065) or from the Missouri Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

On September 27, 2012, we published a proposed rule to list as endangered and to designate critical habitat for the grotto sculpin (77 FR 59488). We proposed to designate as critical habitat underground aquatic habitat underlying approximately 94 square kilometers (km^2) (36 square miles (mi^2)) plus 31 kilometers (km) (19.2 miles (mi)) of surface stream in 4 units located in Perry County, Missouri. That proposal had a 60-day comment period, ending November 26, 2012. We held one public meeting on the proposal on October 30, 2012. We will submit for publication in the **Federal Register** a final critical habitat designation for the grotto sculpin on or before September 27, 2013.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or

carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Changes From the Proposed Rule

Prior to 2013, the grotto sculpin had been recognized as *Cottus* sp. nov. Adams *et al.* (2013) recently described the grotto sculpin as a new species and gave it the name *Cottus specus.* This taxonomic revision is accepted as the best available commercial or scientific data and will be used in all future documentation of the species. *Cottus specus* represents the first description of a cave species within the genus. This taxonomic revision is reflected in the revised proposed listing entry and the revised title of the proposed critical habitat designation for this species in the Proposed Regulation Promulgation section of this document.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of the grotto sculpin, the benefits of critical habitat include public awareness of the presence of the grotto sculpin and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the grotto sculpin due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

In the Service's September 27, 2012 proposal, we did not propose to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation, as well as the implementation of conservation and management actions that address threats to the species. Accordingly, we have prepared a draft economic analysis (DEA) concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**).

Perry County is developing a conservation strategy to address threats to the grotto sculpin. The Service will be considering the plan in our final listing determination and our final decision as to whether there are areas that should be excluded from critical habitat. The Perry County Community Conservation Plan is available for public review and comment at *http://www.regulations.gov* under Docket No. FWS–R3–ES–2013–0016, and on the Service's Midwest Endangered Species Web page (*http://www.fws.gov/midwest/endangered/*).

Draft Economic Analysis

The purpose of the DEA is to identify and analyze the potential economic impacts associated with the proposed critical habitat designation for the grotto sculpin. Economic impacts are considered for critical habitat designations, but not species listings. The DEA separates conservation measures into two distinct categories according to ''without critical habitat'' and ''with critical habitat'' scenarios. The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections otherwise afforded to the grotto sculpin (e.g., under the Federal listing and other Federal, State, and local regulations). The ''with critical habitat'' scenario describes the incremental impacts specifically due to designation of critical habitat for the species. In other words, these incremental conservation measures and associated economic impacts would not occur but for the designation. Conservation measures implemented under the baseline (without critical habitat) scenario are described qualitatively within the DEA, but economic impacts associated with these measures are not quantified. Economic impacts are only quantified for conservation measures implemented specifically due to the designation of critical habitat (incremental impacts). For a further description of the methodology of the analysis, see Chapter 2, ''Framework for the Analysis,'' of the DEA.

The DEA provides estimated costs of the foreseeable potential economic impacts of the proposed critical habitat designation for the grotto sculpin over the next 18 years, which was determined to be the appropriate period for analysis because limited planning information is available for most activities to forecast activity levels for projects beyond an 18-year timeframe. It identifies potential incremental costs as a result of the proposed critical habitat designation; these are those costs attributed to critical habitat over and above those baseline costs attributed to listing.

The DEA quantifies economic impacts of grotto sculpin conservation efforts associated with the following categories of activity: (1) Development, (2) agricultural and grazing, (3) transportation, (4) habitat and species management, and (5) sand mining. Economic impacts are estimated for development, agricultural and grazing, transportation, and habitat and species management activities. No impacts are forecast for sand mining activities because no projects with a Federal nexus were identified within the study area. Due to uncertainty in the amount of habitat and species management costs (through development and implementation of the Perry County land and resource management plan) attributable to critical habitat as opposed to the listing, cost estimates were calculated for a low-end scenario (all costs attributed to listing) and a high-end scenario (all costs attributed to critical habitat).

Total present value impacts anticipated to result from the designation of all areas proposed as grotto sculpin critical habitat are approximately $140,000 for the low-end scenario and $13 million for the high-end scenario, over 18 years. In the low-end scenario, all incremental costs are administrative in nature and result from the consideration of adverse modification in section 7 consultations. In the high-end scenario, we also consider potential indirect incremental costs associated with development and implementation of the Perry County land and resource management plan.

Proposed Unit 1 is likely to experience the greatest incremental

impacts under both the low-end and high-end scenarios. Impacts in proposed Unit 1 are estimated at $130,000 in present value terms (91 percent of total present value impacts) under the low-end scenario, and result from approximately two formal consultations annually for development projects within the City of Perryville, a portion of two programmatic consultations regarding agricultural and grazing operations, and four formal consultations for transportation projects. In the high-end scenario, impacts also include costs associated with development and implementation of the Perry County land and resource management plan. This plan would recommend, among other things, that vegetated buffers be installed around sinkholes, potentially reducing the amount of land that could be used for crop production. Under the high-end scenario, impacts in proposed Unit 1 are estimated at $6.6 million in present value terms (49 percent of total present value impacts). In the high-end scenario, similar impacts are anticipated in proposed Unit 2 ($6.4 million in present value terms, or 48 percent of total present value impacts), due to costs associated with development and implementation of the Perry County land and resource management plan. Overall, in the low-end scenario, consultations associated with development activities account for approximately 76 percent of the incremental impacts in this analysis; in the high-end scenario, approximately 98.9 percent of the incremental impacts in this analysis are associated with habitat and species management through development and implementation of the Perry County land and resource management plan.

As we stated earlier, we are soliciting data and comments from the public on the DEA, as well as all aspects of the proposed rule and our amended required determinations. To incorporate or address information we receive during the public comment period, the final rule or supporting documents may differ from the proposed rule. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Required Determinations—Amended

In our September 27, 2012, proposed rule (77 FR 59488), we indicated that we would defer our determination of compliance with several statutes and executive orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the DEA. We have now made use of the DEA data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Orders (E.O.s) 12866 and 13563 (Regulatory Planning and Review), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on the DEA data, we are amending our required determinations concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), E.O. 12630 (Takings), and E.O. 13211 (Energy, Supply, Distribution, and Use).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. Based on our DEA of the proposed designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments we receive, we may revise this determination as part of our final rulemaking.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for the grotto sculpin would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities, such as development, agriculture and grazing, transportation, and habitat and species management. In order to determine whether it is appropriate for our agency to certify that this proposed rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the grotto sculpin is present, Federal agencies are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize the proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In the DEA, we evaluated the potential economic effects on small entities resulting from implementation of conservation actions related to the proposed designation of critical habitat for the grotto sculpin. Small entities may participate as third parties in section 7 consultations with the Service on development and transportation projects. We estimate that fewer than two small, development-related entities

and one small government (the City of Perryville) would be affected in a single year. It is estimated in the DEA that impacts represent less than 1 percent of annual revenues on a per-entity basis. Indirect impacts resulting from the implementation of the proposed Perry County land and resource management plan are not considered in the analysis. Please refer to the DEA of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

The Service's current understanding of recent case law is that Federal agencies are only required to evaluate the potential impacts of rulemaking on those entities directly regulated by the rulemaking; therefore, they are not required to evaluate the potential impacts to those entities not directly regulated. The designation of critical habitat for an endangered or threatened species only has a regulatory effect where a Federal action agency is involved in a particular action that may affect the designated critical habitat. Under these circumstances, only the Federal action agency is directly regulated by the designation, and, therefore, consistent with the Service's current interpretation of RFA and recent case law, the Service may limit its evaluation of the potential impacts to those identified for Federal action agencies. Under this interpretation, there is no requirement under the RFA to evaluate potential impacts to entities not directly regulated, such as small businesses. However, Executive Orders 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consequently, it is the current practice of the Service to assess to the extent practicable these potential impacts, if sufficient data are available, whether or not this analysis is believed by the Service to be strictly required by the RFA. In other words, while the effects analysis required under the RFA is limited to entities directly regulated by the rulemaking, the effects analysis under the Act, consistent with the E.O. regulatory analysis requirements, can take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. Information for this analysis was gathered from the Small Business Administration, stakeholders, and the Service; data and rationale for our determination is provided in the DEA. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

E.O. 12630 (Takings)

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for grotto sculpin in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. The DEA found that no significant economic impacts are likely to result from the designation of critical habitat for grotto sculpin. Because the Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the DEA and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that this designation of critical habitat for grotto sculpin does not pose significant takings implications for lands within or affected by the designation.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. We do not expect the designation of this proposed critical habitat to significantly affect energy supplies, distribution, or use. Currently, there are no active sand mining operations within the proposed designation. However, one mine site, the Brewer Quarry, is located adjacent to proposed Unit 1. This site received a permit from the Missouri Department of Natural Resources Land Reclamation Program in 2008. Expansion of this mine site could affect the proposed designation. However, communication with the Missouri Department of Natural Resources indicates that sand mining is not expected to expand into the area proposed as critical habitat for the sculpin. As a result, we do not expect any incremental impacts associated with sand mining activities over the analysis period of 18 years. If mining activities expand into the proposed designation, these activities will result in section 7 consultation only if the operation requires a Corps permit, or otherwise has a Federal nexus. No other activities associated with energy supply, distribution, or use are anticipated within the proposed critical habitat. We do not expect the designation of this proposed critical habitat to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Authors

The primary authors of this package are the staff members of the Missouri Ecological Services Field Office, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, which we proposed to amend at 77 FR 59488 on September 27, 2012, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h), the proposed listing entry for ''Sculpin, grotto'', by removing the words ''*Cottus* sp. nov.'' from the Scientific name column for that species and by adding in their place the words ''*Cottus specus*''.

§ 17.95 [Amended]

■ 3. In § 17.95(e), amend the title of the proposed critical habitat entry for the grotto sculpin by removing the words ''(*Cottus* sp. nov.)'' and by adding in their place the words ''(*Cottus specus*)''.

Dated: April 26, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–10705 Filed 5–6–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 120820371–3366–01]

RIN 0648–BC46

Taking and Importing Marine Mammals; Precision Strike Weapon and Air-to-Surface Gunnery Training and Testing Operations at Eglin Air Force Base, FL

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has received an application from the U.S. Department of the Air Force, Headquarters 96th Air Base Wing (U.S. Air Force), Eglin Air Force Base (Eglin AFB) for authorization to take marine mammals, by harassment, incidental to testing and training activities associated with Precision Strike Weapon (PSW) and Air-to-Surface (AS) gunnery missions, both of which are military readiness activities, at Eglin AFB, FL from approximately June 2013, to June 2018. Pursuant to Marine Mammal Protection Act (MMPA) and its implementing regulations, NMFS proposes regulations to govern that take. In order to implement the final rule and issue a Letter of Authorization (LOA), NMFS must determine, among other things, that the total taking will have a negligible impact on the affected species and stocks of marine mammals and will not have an unmitigable adverse impact on the availability of the species for subsistence use. NMFS' proposed regulations would set forth the permissible methods of take and other means of effecting the least practicable adverse impact on the affected species or stocks of marine mammals and their habitat. NMFS invites comments on the application and the proposed regulations.

DATES: Comments and information must be received no later than June 6, 2013.

ADDRESSES: You may submit comments, identified by 0648–BC46, by either of the following methods:

- *Electronic submissions:* submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- Hand delivery of mailing of paper, disk, or CD–ROM comments should be addressed to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

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 Work, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Brian D. Hopper, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

Background

In the case of military readiness activities (as defined by section 315(f) of Pub. L. 107–314; 16 U.S.C. 703 note), sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking 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 regulations are issued, or if the taking is limited to harassment an Incidental Harassment Authorization (IHA) is issued. Upon making a finding that an application for incidental take is adequate and complete, NMFS commences the incidental take authorization process by publishing in the **Federal Register** a notice of a receipt of an application for the implementation of regulations or a proposed IHA.

An authorization for the incidental takings may be granted if NMFS finds that the total taking during the relevant period will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth to achieve the least practicable adverse impact.

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.''

With respect to military readiness activities, the MMPA defines ''harassment'' as: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or behavioral patterns are abandoned or significantly altered (Level B harassment).

Summary of Request

On December 30, 2011, NMFS received an application from the U.S. Air Force requesting an authorization for the take of marine mammals incidental to PSW and AS gunnery testing and training operations within the Eglin Gulf Test and Training Range (EGTTR). On June 28, 2012, pursuant to 50 CFR 216.104(b)(1)(ii), NMFS began the public review process by publishing its determination that the application was adequate and complete by publishing a Notice of Receipt in the **Federal Register** (77 FR 38595). The requested regulations would establish a framework for authorizing incidental take in future Letters of Authorization (LOAs). These LOAs, if approved, would authorize the take, by Level A (physiological) and Level B (behavioral) harassment, of Atlantic bottlenose dolphin (*Tursiops truncatus*) and

Atlantic spotted dolphin (*Stenella frontalis*) incidental to PSW testing and training activities. Takes of dwarf sperm whale (*Kogia simus*), pygmy sperm whale (*K. breviceps*), Atlantic bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphin (*Stenella frontalis*), pan tropical spotted dolphin (*S. attenuate*), and spinner dolphin (*S. longirostris*) by Level B harassment would also be authorized incidental to AS gunnery testing and training operations.

PSW missions would involve air-to-surface impacts of two weapons: (1) The Joint Air-to-Surface Stand-off Missile (JASSM) AGM–158 A and B; and (2) the small diameter bomb (SDB) (GBU–39/B), which result in underwater detonations of up to approximately 300 lbs (136 kg) and 96 lbs (43.5 kg, double SDB) of net explosive weight (NEW), respectively. AS gunnery missions would involve surface impacts of projectiles and small underwater detonations. Pursuant to the MMPA, NMFS issued regulations and annual LOAs for PSW activities from 2006 to 2011, and annual Incidental Harassment Authorizations for AS gunnery activities in 2006, 2007, 2008, 2009, 2010, and 2011.

Description of the Specified Activities

This section describes the PSW and AS gunnery testing and training missions that have the potential to affect marine mammals present within the test area. Both are considered to be a ''military readiness activity'' as defined under 16 U.S.C. 703 note, and involve detonations above the water, near the water surface, and under water within the EGTTR. The PSW missions involve the two weapons identified above, the JASSM and SDB, and AS gunnery missions typically involve the use of 25-mm, 40-mm, and 105-mm gunnery rounds. These activities are described in more detail in the following paragraphs.

PSW Missions

The JASSM is a precision cruise missile designed for launch from a variety of aircraft at altitudes greater than 25,000 ft (7.6 km). The JASSM has a range of more than 200 nautical miles (370.4 km) and carries a 1,000-pound warhead. The JASSM has approximately 300 lbs of TNT equivalent net explosive weight (NEW). After launch from the aircraft, the JASSM cruises at altitudes greater than 12,000 ft (3.7 km) for the majority of its flight until making the terminal maneuver towards the target. The testing exercises involving the JASSM would consist of a maximum of two live shots (single) and four inert shots (single) during the year (Table 1). One live shot will detonate in water and one will detonate in air. Detonation of the JASSM would occur under one of the following three scenarios: (1) Detonation upon impact with the target (about 1.5 m above the water's surface); (2) detonation upon impact with a barge target at the surface of the water; or (3) detonation at 120 milliseconds after contact with the surface of the water.

The SDB is a GPS-guided bomb that can be carried and launched from most USAF aircraft, which makes it an important element of the USAF's Global Strike Task Force. The SDB has a range of up to 50 nautical miles and carries a 217-lb warhead. The SDB has approximately 48 lbs of TNT equivalent NEW. After being released from the aircraft at an altitude greater than 15,000 ft (4.6 km), the SDB deploys ''Diamond Back'' type wings that increase glide time and range as it descends towards the target. Exercises involving the SDB consist of a maximum of six live shots with two of the shots occurring simultaneously, and a maximum of 12 inert shots with up to two occurring simultaneously (Table 1).

TABLE 1—ANNUAL PSW ACTIVITIES

Weapon	Number of live shots per year	Number of inert shots per year
JASSM	2 single shots	4 inert shots.
SDB	6 shots (2 single and 2 double)	12 shots (4 single and 4 double).

Chase aircraft will accompany the launch of JASSM and SDB ordnance. Chase aircraft include F–15, F–16, and T–38 aircraft. These aircraft would follow the test items during captive carry and free flight, but would not follow either item below a predetermined altitude as directed by Flight Safety. Other airborne assets on site may include an E–9 turboprop aircraft or MH–60/53 helicopters circling around the target location. Tanker aircraft, including KC–10s and KC–135s, would also be used for aerial refueling of aircraft involved in training exercises. In addition, an unmanned barge may also be on location to hold instrumentation. If used, the barge would be up to 1,000 ft (304.8 m) away from the target location.

Based on availability, there are two possible target types to be used for the PSW mission tests. The first is a Container Express (CONEX) target (see figure 1–4 in Eglin AFB's application) that consists of five containers strapped, braced, and welded together to form a single structure. The dimensions of each container are approximately 8 ft by 8 ft by 40 ft (2.4 m by 2.4 m by 12.2 m). Each container would contain 200 55-gallon steel drums (filled with air and sealed) to provide buoyancy for the target. The second type of target is a hopper barge, which is a non-self propelled vessel typically used for transportation of bulk cargo (see figure 1–5 in Eglin AFB's application). A typical hopper barge is approximately 30 ft by 12 ft and 125 ft long (9.1 m by 3.7 m and 38.1 m long). The targets would be held in place by a 4-point anchoring system using cables.

PSW testing and training activities conducted by Eglin AFB would occur in the northern GOM in the EGTTR. Targets would be located in water less than 200 ft (61 m) deep and from 15 to 24 nm (27.8 to 44.5 km) offshore, south of Santa Rosa Island and south of Cape San Blas Site D3–A. PSW test missions may occur during any season of the year, but only during daytime hours.

AS Gunnery Missions

AS gunnery missions involve the firing of 25-mm, 40-mm, and 105-mm gunnery rounds from a circling AC–130 gunship. Each round contains 30 g, 392 g, and 2.1 kg of explosive, respectively. Live rounds must be used to produce a visible surface splash that must be used to ''score'' the round (the impact of inert rounds on the sea surface would not be detected). The U.S. Air Force has developed a 105-mm training round (TR) that contains less than 10 percent of the amount of explosive material (0.16 kg) as compared to the ''Full-Up'' (FU) 105-mm round. The TR was developed as one method to mitigate effects on marine life during nighttime AS gunnery exercises when visibility at the water surface is poor. However, the TR cannot be used in the daytime because the amount of explosive material is insufficient to be detected from the aircraft. To establish the test target area, two Mk-25 flares are deployed or a target is towed into the

center of a 9.3 km cleared area on the water's surface. A typical gunship mission lasts approximately 5 hrs without refueling and 6 hrs when air-to-air refueling is accomplished. The total anticipated number of missions and rounds for daytime and nighttime activities is shown in Table 2.

TABLE 2—ANNUAL AS GUNNERY ACTIVITIES

Category	Ordnance	Number of missions	Rounds per mission	Quantity
Daytime Missions	105 mm HE (FU)	25	30	750
	40 mm HE	25	64	1,600
	25 mm HE	25	560	14,000
Nighttime Missions	105 mm HE (TR)	45	30	1,350
	40 mm HE	45	64	2,880
	25 mm HE	45	560	25,200
Total		70		45,780

Water ranges within the EGTTR that are typically used for AS gunnery operations are located in the GOM offshore from the Florida Panhandle (areas W–151A, W151B, W–151C, and W–151D as shown in Figure 1–9 in the Eglin AFB application). Data indicate that W–151A (Figure 1–10 in the Eglin AFB application) is the most frequently used water range due to its proximity to Hurlburt Field, but activities may occur anywhere within the EGTTR. Eglin AFB proposes to conduct AS gunnery missions year round during both daytime and nighttime hours.

Additional information on the Eglin AFB training operations is contained in the application, which is available upon request (see **ADDRESSES**).

Description of Marine Mammals in the Area of the Specified Activity

There are 29 species of marine mammals documented as occurring in Federal waters of the GOM. Cetaceans inhabiting the waters of the GOM may be grouped as odontocetes (toothed whales, including dolphins) or mysticetes (baleen whales), but most of the cetaceans occurring in the Gulf are odontocetes. Typically, very few baleen whales are found in the Gulf and none are expected to occur within the study area given the known distribution of these species. Within the bulk of the EGTTR, over the west Florida continental shelf, the most common species is the bottlenose dolphin (Garrison, 2008), and the Atlantic spotted dolphin also occurs commonly over the continental shelf (Fulling *et al.,* 2003). One species of sirenian inhabits the GOM, the West Indian manatee (*Trichechus manatus*), which is managed by the U.S. Fish and Wildlife Service and is not considered further in this proposed rule.

Approximately 21 marine mammal species may be found in the vicinity of the proposed action area, the EGTTR. These species are the Bryde's whale (*Balaenoptera edeni*), sperm whale (*Physeter macrocephalus*), dwarf sperm whale (*Kogia sima*), pygmy sperm whale (*K. breviceps*), Atlantic bottlenose dolphin (*Tursiops truncatus*), Atlantic spotted dolphin (*Stenella frontalis*), pantropical spotted dolphin (*S. atenuarta*), Blainville's beaked whale (*Mesoplodon densirostris*), Cuvier's beaked whale (*Ziphius cavirostris*), Gervais' beaked whale (*M. europaeus*), Clymene dolphin (*S. clymene*), spinner dolphin (*S. longirostris*), striped dolphin (*S. coeruleoalba*), killer whale (*Orcinus orca*), false killer whale (*Pseudorca crassidens*), pygmy killer whale (*Feresa attenuata*), Risso's dolphin (*Grampus griseus*), Fraser's dolphin *(Lagenodelphis hosei*), melon-headed whale (*Peponocephala electra*), rough-toothed dolphin (*Steno bredanensis*), and short-finned pilot whale (*Globicephala macrorhynchus*). Of these species, only the sperm whale is listed as endangered under the Endangered Species Act (ESA) and as depleted throughout its range under the MMPA. While some of the other species listed here have depleted status under the MMPA, none of the GOM stocks of those species are considered depleted. Eglin AFB's 2011 MMPA application contains a detailed discussion on the description, status, distribution, regional distribution, diving behavior, and acoustics and hearing for the marine mammals in the EGTTR. Additionally, more detailed information on these species can be found in Würsig *et al.* (2000), NMFS' 2008 EA (see **ADDRESSES**), and in the NMFS U.S. Atlantic and GOM Stock Assessment Reports (SARs; Waring *et al.,* 2010). This latter document is available at: *http://www.nefsc.noaa.gov/publications/tm/tm210/*.

The species most likely to occur in the area of Eglin AFB's proposed activities for which takes have been requested include: Atlantic bottlenose dolphin; Atlantic spotted dolphin; pantropical spotted dolphin; spinner dolphin; and dwarf and pygmy sperm whales. Bryde's whales, sperm whales, Blainville's beaked whales, Cuvier's beaked whales, Gervais' beaked whales, killer whales, false killer whales, pygmy killer whales, Risso's dolphins, Fraser's dolphins, striped dolphins, Clymene dolphins, rough-toothed dolphins, short-finned pilot whales, and melon-headed whales are rare in the project area and are not anticipated to be impacted by the PSW and AS gunnery mission activities. Therefore, these species are not considered further in this proposed rule.

TABLE 3—MARINE MAMMAL DENSITY ESTIMATES WITHIN THE STUDY AREA

Species	Density (animals/km^2)	Dive profile (% of time at surface)	Adjusted density (animals/km^2)
Bottlenose dolphin	0.442600	n/a	0.442600
Atlantic spotted dolphin	0.105700	30	0.352333
Pantropical spotted dolphin	0.042870	30	0.142900
Spinner dolphin	0.038100	30	0.127000

TABLE 3—MARINE MAMMAL DENSITY ESTIMATES WITHIN THE STUDY AREA—Continued

Species	Density (animals/km²)	Dive profile (% of time at surface)	Adjusted density (animals/km²)
Dwarf/pygmy sperm whale	0.000381	20	0.001905

With one exception, marine mammal densities estimates for species which takes have been requested, as provided in the LOA application, are consistent with those included in a recent LOA request and LOA addendum for Navy actions conducted offshore of Navy Surface Warfare Center Panama City Division (75 FR 3395, January 21, 2010). The geographic area covered by that LOA overlaps the area associated with PSW and AS gunnery activities, and is considered applicable for the purpose of estimating marine mammal occurrence and densities. The one exception is bottlenose dolphin, for which density estimates were recently provided through a Department of Defense-funded study.

For all species other than the bottlenose dolphin, density estimates were derived from the Navy OPAREA Density Estimates (NODE) for the GOMEX OPAREA report (DON, 2007). Densities were determined using one of two methods: (1) Model-derived estimates; or (2) SAR or other literature-derived estimates. For the model-based approach, density estimates were calculated for each species within areas containing survey effort. A relationship between these density estimates and associated environmental parameters such as depth, slope, distance from the shelf break, sea surface temperature, and chlorophyll-*a* concentration was formulated using generalized additive models. This relationship was then used to generate a two-dimensional density surface for the region by predicting densities in areas where no survey data exist. All analyses for cetaceans in the GOM were based on data collected through NMFS-derived vessel surveys conducted between 1996 and 2004. Species-specific density estimates derived through spatial modeling were compared with abundance estimates found in the most current SAR to ensure consistency.

Cetacean density estimates provided by various researchers often do not contain adjustments for perception or availability bias. Perception bias refers to the failure of observers to detect animals, although they are present in the survey area and available to be seen. Availability bias refers to animals that are in the survey area, but are not able to be seen because they are submerged when observers are present. Perception and availability bias result in the underestimation of abundance and density numbers (negative bias). The density estimates provided in the NODE report are not corrected for negative bias and, therefore, likely underestimate density. In order to address potential negative bias, density estimates were adjusted using submergence factors. Although submergence time versus surface time probably varies between and among species populations based on geographic location, season, and other factors, submergence times suggested by Moore and Clark (1998) were used for this proposed rule.

Bottlenose dolphin density estimates were derived from Protected Species Habitat Modeling in the EGTTR (Garrison, 2008). NMFS developed habitat models using recent aerial survey line transect data collected during winter and summer. In combination with remotely sensed habitat parameters (sea surface temperature and chlorophyll), these data were used to develop spatial density models for cetaceans within the continental shelf and coastal waters of the eastern GOM. Encounter rates during the aerial surveys were corrected for sighting probabilities and the probability that animals were available on the surface to be seen. Given that the survey area completely overlaps the present study area and that these survey data are the most recent and best available, these models are considered to best reflect the occurrence of bottlenose dolphins within the study area. Density estimates were calculated for a number of subareas within the EGTTR, and also aggregated into four principal area categories: (1) North-Inshore; (2) South-Inshore; (3) North-Offshore; and (4) South-Offshore. The proposed action would occur within W–151A and W–151B, which are located in the northernmost portion of the EGTTR in water depths between 30 and 350 m; however, all missions would occur in water depths less than 200 m. Therefore, density in the North-Offshore area is considered to be the most applicable. In order to provide conservative impact estimates, the greatest density between summer and winter seasons was selected, resulting in an overall density estimate of 0.4426 bottlenose dolphins per square kilometer (km²) to be used in this proposed rule.

Potential Effects of the Specified Activity on Marine Mammals

PSW and AS gunnery operations have the potential to impact marine mammals by exposing them to impulsive noise and pressure waves generated by ordnance detonation at or near the surface of the water (maximum range of 25 ft (7.6 m) height and 80 ft (24 m) depth). Exposure to energy or pressure resulting from these detonations could result in non-lethal injury (Level A harassment) and disturbance (Level B harassment). Takes in the form of serious injury and mortality are neither anticipated nor requested. For PSW missions, a maximum of six detonations annually were analyzed to assess potential impacts to marine mammals, including two live JASSM, two live single SDB, and two live double SDB missions. This averages one mission every two months, although the actual timing of missions over the 5-year period is unknown. Only one mission would occur in any 24-hour period. A maximum of 70 annual AS gunnery missions were analyzed, which averages one mission approximately every 5 days. Live fire lasts for approximately 30 minutes per mission, which would result in a maximum of one-half hour of noise producing activities every 5 days occurring at a discreet, variable location within the 2,500 nm² area of W–151A (although activities could occur within the larger, overall 10,000 nm² area of W–151). The potential effects of sound from the proposed PSW and AS gunnery missions may include one or more of the following: Tolerance; masking of natural sounds; disturbance; stress response; and temporary or permanent hearing impairment (Richardson *et al.,* 1995). As outlined in previous NMFS documents, the effects of sound on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.,* 1995):

- The sound may be too weak to be heard at the location of the animal (i.e., lower than the prevailing ambient sound level, the hearing threshold of the animal at relevant frequencies, or both);
- The sound may be audible but not strong enough to elicit any overt behavioral response;

• The sound may elicit reactions of varying degrees and variable relevance to the well-being of the marine mammal; these can range from temporary alert responses to active avoidance reactions such as vacating an area until the stimulus ceases, but potentially for longer periods of time;

• Upon repeated exposure, a marine mammal may exhibit diminishing responsiveness (habituation), or disturbance effects may persist; the latter is most likely with sounds that are highly variable in characteristics and unpredictable in occurrence, and associated with situations that a marine mammal perceives as a threat;

• Any anthropogenic sound that is strong enough to be heard has the potential to result in masking, or reduce the ability of a marine mammal to hear biological sounds at similar frequencies, including calls from conspecifics and underwater environmental sounds such as surf sound;

• If mammals remain in an area because it is important for feeding, breeding, or some other biologically important purpose even though there is chronic exposure to sound, it is possible that there could be sound-induced physiological stress; this might in turn have negative effects on the well-being or reproduction of the animals involved; and

• Very strong sounds have the potential to cause a temporary or permanent reduction in hearing sensitivity, also referred to as threshold shift. In terrestrial mammals, and presumably marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any temporary threshold shift (TTS). For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound. Received sound levels must be even higher for there to be risk of permanent hearing impairment (PTS). In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Tolerance

Numerous studies have shown that underwater sounds are often readily detectable by marine mammals in the water at distances of many kilometers. However, other studies have shown that marine mammals at distances more than a few kilometers away often show no apparent response to activities of various types (Miller *et al.,* 2005). This is often true even in cases when the sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to underwater sound from sources such as airgun pulses or vessels under some conditions, at other times, mammals of all three types have shown no overt reactions (e.g., Malme *et al.,* 1986; Richardson *et al.,* 1995; Madsen and Mohl, 2000; Croll *et al.,* 2001; Jacobs and Terhune, 2002; Madsen *et al.,* 2002; Miller *et al.,* 2005).

Masking

Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, and learning about their environment (Erbe and Farmer, 2000; Tyack, 2000). Masking, or auditory interference, generally occurs when sounds in the environment are louder than, and of a similar frequency as, auditory signals an animal is trying to receive. Masking is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations.

The extent of the masking interference depends on the spectral, temporal, and spatial relationships between the signals an animal is trying to receive and the masking noise, in addition to other factors. In humans, significant masking of tonal signals occurs as a result of exposure to noise in a narrow band of similar frequencies. As the sound level increases, the detection of frequencies above those of the masking stimulus decreases. This principle is expected to apply to marine mammals as well because of common biomechanical cochlear properties across taxa.

Richardson *et al.* (1995) argued that the maximum radius of influence of an industrial noise (including broadband low-frequency sound transmission) on a marine mammal is the distance from the source to the point at which the noise can barely be heard. This range is determined by either the hearing sensitivity of the animal or the background noise level present. Industrial masking is most likely to affect some species' ability to detect communication calls and natural sounds (i.e., surf noise, prey noise, etc.) (Richardson *et al.,* 1995).

The echolocation calls of toothed whales are subject to masking by high-frequency sound. Human data indicate that low-frequency sounds can mask high-frequency sounds (i.e., upward masking). Studies on captive odontocetes by Au *et al.* (1974, 1985, 1993) indicate that some species may use various processes to reduce masking effects (e.g., adjustments in echolocation call intensity or frequency as a function of background noise conditions). There is also evidence that the directional hearing abilities of odontocetes are useful in reducing masking at the higher frequencies these cetaceans use to echolocate, but not at the low-to-moderate frequencies they use to communicate (Zaitseva *et al.,* 1980). A study by Nachtigall and Supin (2008) showed that false killer whales adjust their hearing to compensate for ambient sounds and the intensity of returning echolocation signals. Holt *et al.* (2009) measured killer whale call source levels and background noise levels in the one to 40 kHz band and reported that the whales increased their call source levels by one dB SPL for every one dB SPL increase in background noise level. Similarly, another study on St. Lawrence River belugas reported a similar rate of increase in vocalization activity in response to passing vessels (Scheifele *et al.,* 2005).

Although masking is a phenomenon which may occur naturally, the introduction of loud anthropogenic sounds into the marine environment at frequencies important to marine mammals increases the severity and frequency of occurrence of masking. For example, if a baleen whale is exposed to continuous low-frequency sound from an industrial source, this would reduce the size of the area around that whale within which it can hear the calls of another whale. The components of background noise that are similar in frequency to the signal in question primarily determine the degree of masking of that signal. In general, little is known about the degree to which marine mammals rely upon detection of sounds from conspecifics, predators, prey, or other natural sources. In the absence of specific information about the importance of detecting these natural sounds, it is not possible to predict the impact of masking on marine mammals (Richardson *et al.,* 1995). In general, masking effects are expected to be less severe when sounds are transient than when they are continuous. Masking is typically of greater concern for those marine mammals that utilize low frequency communications, such as baleen whales and, as such, is not likely

to occur for marine mammals in the EGTTR.

Disturbance

Behavioral responses to sound are highly variable and context-specific. Many different variables can influence an animal's perception of and response to (in both nature and magnitude) an acoustic event. An animal's prior experience with a sound or sound source affects whether it is less likely (habituation) or more likely (sensitization) to respond to certain sounds in the future (animals can also be innately pre-disposed to respond to certain sounds in certain ways) (Southall *et al.,* 2007). Related to the sound itself, the perceived nearness of the sound, bearing of the sound (approaching vs. retreating), similarity of the sound to biologically relevant sounds in the animal's environment (i.e., calls of predators, prey, or conspecifics), and familiarity of the sound may affect the way an animal responds to the sound (Southall *et al.,* 2007). Individuals (of different age, gender, reproductive status, etc.) among most populations will have variable hearing capabilities, and differing behavioral sensitivities to sounds that will be affected by prior conditioning, experience, and current activities of those individuals. Often, specific acoustic features of the sound and contextual variables (i.e., proximity, duration, or recurrence of the sound or the current behavior that the marine mammal is engaged in or its prior experience), as well as entirely separate factors such as the physical presence of a nearby vessel, may be more relevant to the animal's response than the received level alone.

Because the few available studies show wide variation in response to underwater sound, it is difficult to quantify exactly how sound from PSW and AS gunnery missions would affect marine mammals. Exposure of marine mammals to sound sources can result in, but is not limited to, no response or any of the following observable responses: Increased alertness; orientation or attraction to a sound source; vocal modifications; cessation of feeding; cessation of social interaction; alteration of movement or diving behavior; avoidance; habitat abandonment (temporary or permanent); and, in severe cases, panic, flight, stampede, or stranding, potentially resulting in death (Southall *et al.,* 2007). A review of marine mammal responses to anthropogenic sound was first conducted by Richardson (1995). A more recent review (Nowacek *et al.,* 2007) addresses studies conducted since 1995 and focuses on observations where the received sound level of the exposed marine mammal(s) was known or could be estimated. The following sub-sections provide examples of behavioral responses that provide an idea of the variability in behavioral responses that would be expected given the differential sensitivities of marine mammal species to sound and the wide range of potential acoustic sources to which a marine mammal may be exposed. Estimates of the types of behavioral responses that could occur for a given sound exposure should be determined from the literature that is available for each species, or extrapolated from closely related species when no information exists.

Flight Response—A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). Flight responses have been speculated as being a component of marine mammal strandings associated with sonar activities (Evans and England, 2001).

Response to Predator—Evidence suggests that at least some marine mammals have the ability to acoustically identify potential predators. For example, harbor seals that reside in the coastal waters off British Columbia are frequently targeted by certain groups of killer whales, but not others. The seals discriminate between the calls of threatening and non-threatening killer whales (Deecke *et al.,* 2002), a capability that should increase survivorship while reducing the energy required for attending to and responding to all killer whale calls. The occurrence of masking or hearing impairment provides a means by which marine mammals may be prevented from responding to the acoustic cues produced by their predators. Whether or not this is a possibility depends on the duration of the masking/hearing impairment and the likelihood of encountering a predator during the time that predator cues are impeded.

Diving—Changes in dive behavior can vary widely. They may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive. Variations in dive behavior may reflect interruptions in biologically significant activities (e.g., foraging) or they may be of little biological significance. Variations in dive behavior may also expose an animal to potentially harmful conditions (e.g., increasing the chance of ship-strike) or may serve as an avoidance response that enhances survivorship. The impact of a variation in diving resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Nowacek *et al.* (2004) reported disruptions of dive behaviors in foraging North Atlantic right whales when exposed to an alerting stimulus, an action, they noted, that could lead to an increased likelihood of ship strike. However, the whales did not respond to playbacks of either right whale social sounds or vessel noise, highlighting the importance of the sound characteristics in producing a behavioral reaction. Conversely, Indo-Pacific humpback dolphins have been observed to dive for longer periods of time in areas where vessels were present and/or approaching (Ng and Leung, 2003). In both of these studies, the influence of the sound exposure cannot be decoupled from the physical presence of a surface vessel, thus complicating intepretations of the relative contribution of each stimulus to the response. Indeed, the presence of surface vessels, their approach and speed of approach, seemed to be significant factors in the response of the Indo-Pacific humpback dolphins (Ng and Leung, 2003). Low frequency signals of the Acoustic Thermometry of Ocean Climate (ATOC) sound source were not found to affect dive times of humpback whales in Hawaiian waters (Frankel and Clark, 2000) or to overtly affect elephant seal dives (Costa *et al.,* 2003). They did, however, produce subtle effects that varied in direction and degree among the individual seals, illustrating the equivocal nature of behavioral effects and consequent difficulty in defining and predicting them.

Due to past incidents of beaked whale strandings associated with sonar operations, feedback paths are provided between avoidance and diving and indirect tissue effects. This feedback accounts for the hypothesis that variations in diving behavior and/or avoidance responses can possibly result in nitrogen tissue supersaturation and nitrogen off-gassing, possibly to the point of deleterious vascular bubble formation (Jepson *et al.,* 2003). Although hypothetical, the potential process is currently popular and controversial.

Foraging—Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed

displacement from known foraging areas, the appearance of secondary indicators (e.g., bubble nets or sediment plumes), or changes in dive behavior. Noise from seismic surveys was not found to impact the feeding behavior in western grey whales off the coast of Russia (Yazvenko *et al.,* 2007) and sperm whales engaged in foraging dives did not abandon dives when exposed to distant signatures of seismic airguns (Madsen *et al.,* 2006). Balaenopterid whales exposed to moderate low-frequency signals similar to the ATOC sound source demonstrated no variation in foraging activity (Croll *et al.,* 2001), whereas five out of six North Atlantic right whales exposed to an acoustic alarm interrupted their foraging dives (Nowacek *et al.,* 2004). Although the received sound pressure level at the animals was similar in the latter two studies, the frequency, duration, and temporal pattern of signal presentation were different. These factors, as well as differences in species sensitivity, are likely contributing factors to the differential response. A determination of whether foraging disruptions incur fitness consequences will require information on or estimates of the energetic requirements of the individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Breathing—Variations in respiration naturally vary with different behaviors and variations in respiration rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Mean exhalation rates of gray whales at rest and while diving were found to be unaffected by seismic surveys conducted adjacent to the whale feeding grounds (Gailey *et al.,* 2007). Studies with captive harbor porpoises showed increased respiration rates upon introduction of acoustic alarms (Kastelein *et al.,* 2001; Kastelein *et al.,* 2006a) and emissions for underwater data transmission (Kastelein *et al.,* 2005). However, exposure of the same acoustic alarm to a striped dolphin under the same conditions did not elicit a response (Kastelein *et al.,* 2006a), again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure.

Social relationships—Social interactions between mammals can be affected by noise via the disruption of communication signals or by the displacement of individuals. Disruption of social relationships therefore depends on the disruption of other behaviors (e.g., caused avoidance, masking, etc.) and no specific overview is provided here. However, social disruptions must be considered in context of the relationships that are affected. Long-term disruptions of mother/calf pairs or mating displays have the potential to affect the growth and survival or reproductive effort/success of individuals, respectively.

Vocalizations (also see Masking Section)—Vocal changes in response to anthropogenic noise can occur across the repertoire of sound production modes used by marine mammals, such as whistling, echolocation click production, calling, and singing. Changes may result in response to a need to compete with an increase in background noise or may reflect an increased vigilance or startle response. For example, in the presence of low-frequency active sonar, humpback whales have been observed to increase the length of their ''songs'' (Miller *et al.,* 2000; Fristrup *et al.,* 2003), possibly due to the overlap in frequencies between the whale song and the low-frequency active sonar. A similar compensatory effect for the presence of low frequency vessel noise has been suggested for right whales; right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). Killer whales off the northwestern coast of the United States have been observed to increase the duration of primary calls once a threshold in observing vessel density (e.g., whale watching) was reached, which has been suggested as a response to increased masking noise produced by the vessels (Foote *et al.,* 2004). In contrast, both sperm and pilot whales potentially ceased sound production during the Heard Island feasibility test (Bowles *et al.,* 1994), although it cannot be absolutely determined whether the inability to acoustically detect the animals was due to the cessation of sound production or the displacement of animals from the area.

Avoidance—Avoidance is the displacement of an individual from an area as a result of the presence of a sound. Richardson *et al.,* (1995) noted that avoidance reactions are the most obvious manifestations of disturbance in marine mammals. It is qualitatively different from the flight response, but also differs in the magnitude of the response (i.e., directed movement, rate of travel, etc.). Oftentimes avoidance is temporary, and animals return to the area once the noise has ceased. Longer term displacement is possible, however, which can lead to changes in abundance or distribution patterns of the species in the affected region if they do not become acclimated to the presence of the sound (Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006). Acute avoidance responses have been observed in captive porpoises and pinnipeds exposed to a number of different sound sources (Kastelein *et al.,* 2001; Finneran *et al.,* 2003; Kastelein *et al.,* 2006a; Kastelein *et al.,* 2006b). Short term avoidance of seismic surveys, low frequency emissions, and acoustic deterrants has also been noted in wild populations of odontocetes (Bowles *et al.,* 1994; Goold, 1996; 1998; Stone *et al.,* 2000; Morton and Symonds, 2002) and to some extent in mysticetes (Gailey *et al.,* 2007), while longer term or repetitive/chronic displacement for some dolphin groups and for manatees has been suggested to be due to the presence of chronic vessel noise (Haviland-Howell *et al.,* 2007; Miksis-Olds *et al.,* 2007).

Orientation—A shift in an animal's resting state or an attentional change via an orienting response represent behaviors that would be considered mild disruptions if occurring alone. As previously mentioned, the responses may co-occur with other behaviors; for instance, an animal may initially orient toward a sound source, and then move away from it. Thus, any orienting response should be considered in context of other reactions that may occur.

Stress Response

An acoustic source is considered a potential stressor if, by its action on the animal, via auditory or non-auditory means, it may produce a stress response in the animal. Here, the stress response will refer to an increase in energetic expenditure that results from exposure to the stressor and which is predominantly characterized by either the stimulation of the sympathetic nervous system (SNS) or the hypothalamic-pituitary-adrenal (HPA) axis (Reeder and Kramer, 2005). The SNS response to a stressor is immediate and acute and is characterized by the release of the catecholamine neurohormones norepinephrine and epinephrine (i.e., adrenaline). These hormones produce elevations in the heart and respiration rate, increase awareness, and increase the availability of glucose and lipids for energy. The HPA response is ultimately defined by increases in the secretion of the

glucocorticoid steroid hormones, predominantly cortisol in mammals. The presence and magnitude of a stress response in an animal depends on a number of factors. These include the animal's life history stage (e.g., neonate, juvenile, adult), the environmental conditions, reproductive or developmental state, and experience with the stressor. Not only will these factors be subject to individual variation, but they will also vary within an individual over time. The stress response may or may not result in a behavioral change, depending on the characteristics of the exposed animal. However, provided a stress response occurs, we assume that some contribution is made to the animal's allostatic load. Any immediate effect of exposure that produces an injury is assumed to also produce a stress response and contribute to the allostatic load. Allostasis is the ability of an animal to maintain stability through change by adjusting its physiology in response to both predictable and unpredictable events (McEwen and Wingfield, 2003). If the acoustic source does not produce tissue effects, is not perceived by the animal, or does not produce a stress response by any other means, we assume that the exposure does not contribute to the allostatic load. Additionally, without a stress response or auditory masking, it is assumed that there can be no behavioral change.

Hearing Threshold Shift

In mammals, high-intensity sound may rupture the eardrum, damage the small bones in the middle ear, or over stimulate the electromechanical hair cells that convert the fluid motions caused by sound into neural impulses that are sent to the brain. Lower level exposures may cause a loss of hearing sensitivity, termed a threshold shift (TS) (Miller, 1974). Incidence of TS may be either permanent, referred to as permanent threshold shift (PTS), or temporary, referred to as temporary threshold shift (TTS). The amplitude, duration, frequency, and temporal pattern, and energy distribution of sound exposure all affect the amount of associated TS and the frequency range in which it occurs. As amplitude and duration of sound exposure increase, generally, so does the amount of TS and recovery time. Human non-impulsive noise exposure guidelines are based on exposures of equal energy (the same SEL) producing equal amounts of hearing impairment regardless of how the sound energy is distributed in time (NIOSH 1998). Until recently, previous marine mammal TTS studies have also generally supported this equal energy relationship (Southall *et al.,* 2007). Three newer studies, two by Mooney *et al.* (2009a, 2009b) on a single bottlenose dolphin either exposed to playbacks of Navy MFAS or octave-band noise (4–8 kHz) and one by Kastak *et al.* (2007) on a single California sea lion exposed to airborne octave-band noise (centered at 2.5 kHz), concluded that for all noise exposure situations the equal energy relationship may not be the best indicator to predict TTS onset levels. Generally, with sound exposures of equal energy, those that were quieter (lower sound pressure level [SPL]) with longer duration were found to induce TTS onset more than those of louder (higher SPL) and shorter duration (more similar to noise from AS gunnery exercises). For intermittent sounds, less TS will occur than from a continuous exposure with the same energy (some recovery will occur between exposures) (Kryter *et al.,* 1966; Ward, 1997). Additionally, though TTS is temporary, very prolonged exposure to sound strong enough to elicit TTS, or shorter-term exposure to sound levels well above the TTS threshold, can cause PTS, at least in terrestrial mammals (Kryter, 1985). However, these studies highlight the inherent complexity of predicting TTS onset in marine mammals, as well as the importance of considering exposure duration when assessing potential impacts.

PTS consists of non-recoverable physical damage to the sound receptors in the ear, which can include total or partial deafness, or an impaired ability to hear sounds in specific frequency ranges; PTS is considered Level A harassment. TTS is recoverable and is considered to result from temporary, non-injurious impacts to hearing-related tissues; TTS is considered Level B harassment.

Permanent Threshold Shift

Auditory trauma represents direct mechanical injury to hearing-related structures, including tympanic membrane rupture, disarticulation of the middle ear ossicles, and trauma to the inner ear structures such as the organ of Corti and the associated hair cells. Auditory trauma is irreversible and considered to be an injury that could result in PTS. PTS results from exposure to intense sounds that cause a permanent loss of inner or outer cochlear hair cells or exceed the elastic limits of certain tissues and membranes in the middle and inner ears and result in changes in the chemical composition of the inner ear fluids. In some cases, there can be total or partial deafness across all frequencies, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges. There is no empirical data for onset of PTS in any marine mammal, and therefore, PTS- onset must be estimated from TTS-onset measurements and from the rate of TTS growth with increasing exposure levels above the level eliciting TTS-onset. PTS is presumed to be likely if the hearing threshold is reduced by ≥ 40 dB (i.e., 40 dB of TTS). Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals.

Temporary Threshold Shift

TTS is the mildest form of hearing impairment that can occur during exposure to a loud sound (Kryter, 1985). Southall *et al.* (2007) indicate that although PTS is a tissue injury, TTS is not because the reduced hearing sensitivity following exposure to intense sound results primarily from fatigue, not loss, of cochlear hair cells and supporting structures and is reversible. Accordingly, NMFS classifies TTS as Level B Harassment, not Level A Harassment (injury); however, NMFS does not consider the onset of TTS to be the lowest level at which Level B Harassment may occur (see Behavior section below).

Southall *et al.* (2007) considers a 6 dB TTS (i.e., baseline hearing thresholds are elevated by 6 dB) sufficient to be recognized as an unequivocal deviation and thus a sufficient definition of TTS onset. TTS in bottlenose dolphin hearing have been experimentally induced. For example, Finneran *et al.* (2002) exposed a trained captive bottlenose dolphin to a seismic watergun simulator with a single acoustic pulse. No TTS was observed in the dolphin at the highest exposure condition (peak: 207 kPa [30psi]; peak-to-peak: 228 dB re: 1 microPa; SEL: 188 dB re 1 microPa^2-s). Schludt *et al.* (2000) demonstrated temporary shifts in masked hearing thresholds in five bottlenose dolphins occurring generally between 192 and 201 dB rms (192 and 201 dB SEL) after exposure to intense, non-pulse, 1–s tones at, 3kHz, 10kHz, and 20 kHz. TTS onset occurred at mean sound exposure level of 195 dB rms (195 dB SEL). At 0.4 kHz, no subjects exhibited threshold shifts after SPL exposures of 193dB re: 1 microPa (192 dB re: 1 microPa^2-s). In the same study, at 75 kHz, one dolphin exhibited a TTS after exposure at 182 dB SPL re: 1 microPa but not at higher exposure levels. Another dolphin experienced no threshold shift after exposure to maximum SPL levels of 193 dB re: 1

microPa at the same frequency. Frequencies of explosives used at MCAS Cherry Point range from 1–25 kHz; the range where dolphin TTS onset occurred at 195 dB rms in the Schludt *et al.* (2000) study.

Preliminary research indicates that TTS and recovery after noise exposure are frequency dependent and that an inverse relationship exists between exposure time and sound pressure level associated with exposure (Mooney *et al.,* 2005; Mooney, 2006). For example, Nachtigall *et al.* (2003) measured TTS in a bottlenose dolphin and found an average 11 dB shift following a 30 minute net exposure to OBN at a 7.5 kHz center frequency (max SPL of 179 dB re: 1 microPa; SEL: 212–214 dB re:1 microPa^2-s). No TTS was observed after exposure to the same duration and frequency noise with maximum SPLs of 165 and 171 dB re:1 microPa. After 50 minutes of exposure to the same 7.5 kHz frequency OBN, Natchigall *et al.* (2004) measured a 4 -8 dB shift (max SPL: 160dB re 1microPa; SEL: 193–195 dB re:1 microPa^2-s). Finneran *et al.* (2005) concluded that a sound exposure level of 195 dB re 1 µPa2-s is a reasonable threshold for the onset of TTS in bottlenose dolphins exposed to mid-frequency tones.

Assessment of Marine Mammal Impacts From Explosive Ordnance

PSW Missions

For the acoustic analysis of PSW activities, the exploding charge is characterized as a point source. The components of PSW activities pertinent to estimating impacts include the location of the explosions relative to the water surface and the number of explosions.

SDBs are intended to either strike a target on the surface of the water or detonate in the air over a target at an altitude of up to 25 ft (7.6 m) above the surface of the water. It is assumed that a surface target would be impacted at a point approximately five feet (1.5 m) above the surface. To calculate the range to NMFS' harassment thresholds, these two distances are used to bound the potential height of the explosion (although detonations could occur at any point in between). The effect of the target itself on the propagation of the shock wave into the water column is omitted for the purpose of determining the range to the harassment thresholds. This is considered to be a conservative measure because the target would likely reflect and diffuse the explosive pressure wave, but would not amplify or focus it. SDB ''double shots'' would involve two bombs being deployed from the same aircraft to strike the same target within a maximum of five seconds of each other. Under the ''double shot'' scenario, the NEW of each bomb is added in order to calculate the distance to energy thresholds; however, the pressure component is not additive, and pressure estimates are derived from a single charge weight.

The JASSM is intended to impact a target located on the surface of the water. Similar to the description of the SDB above, it is assumed that the missile may strike the target at some distance about the surface. However, the JASSM is substantially heavier than the SDB (approximately 2,240 lbs versus 285 lbs), and would potentially travel at a greater velocity on impact. Therefore, the JASSM would impact the target with greater force, and it is anticipated that the missile could puncture the target and explode in the water column. Under this type of scenario, detonation occurs a maximum of 120 milliseconds after contact with the water, which corresponds to a depth of 70 to 80 ft (21 to 24 m). As a result, impact range calculations are bounded by depth categories of 1 ft (0.3 m) and greater than 20 ft (6.1 m). Only one JASSM would be deployed per mission (i.e., no ''double shots''), and both energy and pressure estimates are based on the NEW of one missile.

Table 4 provides the estimated range, or radius, from the detonation point to the various thresholds under summer and winter scenarios. The range is then used to calculate the total area of the zone of influence (ZOI). The Level B harassment (behavioral) threshold (177 dB re 1 µPa^2-s EFD) is not included. Sub-TTS harassment is considered to occur when animals are exposed to repetitive disturbance, which for underwater impulsive noise is considered to be more than one detonation within a 24-hour period. No more than one explosion associated with PSW activities will occur within any 24-hour period. The SDB ''double shot'' is considered to be one detonation because the two explosions are intended to occur within five seconds of each other. In-water ranges for the 30.5 and 13 psi-msec thresholds for explosions occurring in the air are negligible.

TABLE 4—ESTIMATED THRESHOLD RADII (IN METERS) FOR PSW ACTIVITIES

Ordinance	NEW lbs)	Height or depth of explosion (m)	Mortality	Level A harassment		Level B harassment	
			30.5 psi-msec	205 dB re 1 µPa^2-s EFD	13 psi-msec	82 dB re 1 µPa^2-s EFD	23 psi peak
Summer							
Single SDB	48	1.5 height	0	12	0	47	447
		7.6 height	0	12	0	48	447
Double SDB	96	1.5 height	0	16	0	65	550
		7.6 height	0	17	0	66	550
JASSM	300	0.3 depth	75	170	130	520	770
		>6.1 depth	320	550	1,030	2,490	770
Winter							
Single SDB	48	1.5 height	0	12	0	47	471
		7.6 height	0	12	0	48	471
Double SDB	96	1.5 height	0	16	0	65	594
		7.6 height	0	16	0	66	594
JASSM	300	0.3 depth	75	170	130	580	871
		>6.1 depth	320	590	1,096	3,250	871

The ZOIs calculated by using the threshold ranges in Table 4 are combined with the number of live shots (Table 1) and marine mammal densities (Table 3) to estimate the number of animals affected. Because of the mission location in relatively shallow continental shelf waters ranging from approximately 40 to 50 m, the species considered to be potentially affected by PSW mission activities include the bottlenose dolphin, Atlantic spotted dolphin, dwarf sperm whale, and pygmy sperm whale. Potential exposure to energy and pressure resulting from detonations could theoretically occur at the surface or at any number of depths below the surface with differing consequences. As a conservative measure, a mid-depth scenario was selected by Eglin AFB to ensure the greatest direct path for the harassment ranges, and to give the greatest impact range for the injury thresholds.

Tables 5, 6, and 7 provide the annual potential number of exposures associated with mortality, Level A harassment, and Level B harassment. In each case, a range of numbers is provided. The ranges represent the minimum and maximum number of potential takes, based on various combinations of explosion height, explosion depth, and season. In cases where dual criteria exist, the threshold with the greatest distance and corresponding ZOI is used. For example, for in-water JASSM detonations, the 23 psi threshold provides the largest Level B harassment zone when detonations occur near the surface, while the 182 dB EFD threshold provides the largest Level B harassment zone at depth.

TABLE 5—NUMBER OF POTENTIAL MARINE MAMMAL EXPOSURES, MORTALITIES (30.5 psi-msec)

Species	Number of potential exposures, single SDB (2 shots)	Number of potential exposures, double SDB (2 shots)	Number of potential exposures, single JASSM (2 shots)	Total number potential exposures
Atlantic bottlenose dolphin	0	0	0.0156–0.2848	0.0156–0.2848
Atlantic spotted dolphin	0	0	0.0125–0.2267	0.0125–0.2267
Dwarf/Pygmy sperm whale	0	0	0.0001–0.0012	0.0001–0.0012

TABLE 6—NUMBER OF POTENTIAL MARINE MAMMAL EXPOSURES, LEVEL A HARASSMENT

Species	Number of potential exposures, single SDB (2 shots)	Number of potential exposures, double SDB (2 shots)	Number of potential exposures, single JASSM (2 shots)	Total number potential exposures
Atlantic bottlenose dolphin	0.00040	0.00080	0.08037–3.34052	0.08157–3.34172
Atlantic spotted dolphin	0.00032	0.00064	0.06398–2.65923	0.06494–2.66019
Dwarf/Pygmy sperm whale	0.000002	0.000003	0.00035–0.01438	0.000355–0.014385

TABLE 7—NUMBER OF POTENTIAL MARINE MAMMAL EXPOSURES, LEVEL B HARASSMENT

Species	Number of potential exposures, single SDB (2 shots)	Number of potential exposures, double SDB (2 shots)	Number of potential exposures, single JASSM (2 shots)	Total number potential exposures
Atlantic bottlenose dolphin	0.55566–0.61693	0.84124–0.98122	0.75197–29.37372	2.14887–30.97187
Atlantic spotted dolphin	0.44233–0.49111	0.66967–0.78110	0.59861–23.38304	1.71061–24.65525
Dwarf/Pygmy sperm whale	0.00239–0.00266	0.00362–0.00422	0.00324–0.12643	0.00925–0.13331

The preceding tables illustrate that the potential impacts to marine mammals would primarily be the result of JASSM detonations. Eglin AFB does not anticipate that any marine mammals would be exposed to positive impulse pressure levels associated with serious injury or mortalities. In the absence of mitigation measures, up to approximately 0.3 bottlenose dolphins and 0.2 Atlantic spotted dolphins per year could be exposed to the 30.5 psi-msec threshold; however, where less than 0.5 animals are affected, no take is assumed. Pygmy and dwarf sperm whales are not expected to be affected.

A maximum of approximately three bottlenose dolphins and three Atlantic spotted dolphins could be exposed to noise and/or pressure levels associated with Level A harassment, depending on the season and depth of the JASSM detonation. Similarly, up to a maximum of 31 bottlenose dolphins and 25 Atlantic spotted dolphins could be exposed to level associated with Level B harassment (TTS). Essentially, no pygmy or dwarf sperm whales are expected to experience either Level A or Level B harassment.

AS Gunnery Missions

Table 8 provides the estimated range from the detonation point to the various thresholds. This range, or radius, is then used to calculate the total area affected by a gunnery round. For this analysis, it is assumed that all rounds strike the water and detonate at or just below the surface of the water, although this assumption is somewhat conservative because some rounds may strike the target and introduce less noise into the water. The ranges to the thresholds were calculated for two seasons (summer and winter) and depth strata (80 m and 160 m) in order to reasonably bound the environmental conditions under which AS gunner activities would occur. As a conservative measure, the greatest range within each season and depth strata is used in take estimate calculations. In addition, where dual criteria exist, the criteria resulting in the most conservative estimate (i.e., greater number of takes) are used.

TABLE 8—ESTIMATED THRESHOLD RADII (IN METERS) FOR AS GUNNERY ACTIVITIES

Ordnance type	Mortality	Level A Harassment		Level B Harassment		
	30.5 psi-msec	205 dB EFD	13 psi-msec	182 dB EFD	23 psi	177 dB EFD
105 mm FU	3.8	22.81	6.96	158.26	216.37	281.78
105 mm TR	2.45	8.86	3.29	49.79	91.45	90.46
40 mm	3.07	12.52	3.69	74.27	123.83	142.11
25 mm	1.26	0	2.52	23.83	52.27	41.24

As described in Section 6 of the LOA application, the number of events may vary for energy and pressure metrics. For energy metrics, the number of events equates to the number of rounds expended and released energy is evaluated as an additive exposure. Pressure-based thresholds are based on the maximum value received by the animal. The method for estimating the number of firing events for 40 mm and 25 mm rounds, as they related to pressure metrics, is based on the firing protocol. These rounds are typically fired in bursts, with each burst expended within a 2- to 10-second time frame. Given the average cetacean density with assumed uniform distribution, and average swim speed of three knots, there would not be sufficient time for new animals to enter the ZOI within the time frame of a single burst. Therefore, only the peak pressure of a single burst would be experienced within a given ZOI. For 40 mm rounds, a typical mission includes 64 rounds, with approximately 20 rounds per burst. Based on the tight target area and small ''miss'' distance, all rounds in a burst are expected to enter the water within 5 m of the target. As a result, take calculations for 40 mm rounds are based on the total number of rounds fired per year divided by 20. Similarly, for 25 mm rounds, missions typically include 560 rounds fired in bursts of 100 rounds, and pressure-based take calculations are based on the total number of rounds divided by 100. For energy metrics, however, all rounds are used for estimating exposures.

The firing protocol for 105 mm rounds does not involve bursts of multiple rounds at a time; these round are fired singly, with up to a 30-second interval between rounds, which results in approximately two rounds per minute. Pressure-based exposure calculations are performed based on the total number of rounds expended.

Annual marine mammal takes from AS gunnery activities are then calculated using the adjusted marine mammal density estimates, the ZOI of each type of round fired, and the total number of events per year. Table 9 provides the total number of potentially affected (exposed) marine mammals for all combined gunnery activities, including 105 mm (FU and TR), 40 mm, and 25 mm rounds. The numbers in Table 9 represent the maximum number of exposures considered reasonably possible. It is important to note that these exposure estimates are derived without consideration of mitigation measures (except use of the 105 mm TR, an operational mitigation measure). For Level A harassment calculations, the ZOI corresponding to the 205 dB EFD is used because the criterion results in the most conservative take estimate. Similarly, for Level B physiological harassment calculations, the ZOI corresponding to the 182 dB EFD is used because this criterion results in the most conservative take estimate even though the 23 psi threshold radii are greater than the radii for the 182 dB EFD threshold.

TABLE 9—ANNUAL NUMBER OF POTENTIALLY MARINE MAMMALS TAKES FROM AS GUNNERY ACTIVITIES

Species	Adjusted density (#/km^2)	Mortality	Level A harassment		Level B harassment (TTS)		Level B harassment (behavioral)
		30.5 psi-msec	205 dB EFD	13 psi-msec	182 dB EFD	23 psi peak	177 dB EFD
Bottlenose dolphin	0.442600	0.03012721	1.666395	0.078538	96.08673	70.81186	316.66708
Atlantic spotted dolphin	0.352333	0.02398285	1.326539	0.062521	76.49011	56.36998	252.08374
Pantropical spotted dolphin	0.142900	0.00021201	0.011511	0.000688	0.63857	0.65954	2.07718
Spinner dolphin	0.127000	0.00018842	0.010230	0.000611	0.56752	0.58615	1.84606
Dwarf/pygmy sperm whale	0.001905	0.00012967	0.007172	0.000338	0.41357	0.30478	1.36297

Explosive criteria and thresholds for assessing impacts of explosions on marine mammals were originally developed for the shock trials of the *USS Seawolf* and *USS Winston S. Churchill*. NMFS provided a detailed discussion in its promulgation of regulations for issuing LOAs to Eglin AFB for Precision Strike Weapon testing activity (71 FR 44001, August 3, 2006), which is not repeated here. Please refer to that document for this background information. However, one part of the analysis has changed. That information is provided here.

TABLE 10—CURRENT NMFS ACOUSTIC CRITERIA WHEN ADDRESSING HARASSMENT FROM EXPLOSIVES

Level B Behavior	176 dB ⅓ Octave SEL (sound energy level).
Level B TTS Dual Criterion.	182 dB ⅓ Octave SEL. 23 psi (peak pressure).
Level A PTS (permanent threshold shift).	205 dB SEL.
Level A Injury	13 psi-msec.
Mortality	30.5 psi-msec.

Subsequent to the issuance of the USAF 2002 PEA, NMFS updated one of the dual criteria related to the onset level for temporary threshold shift (TTS; Level B harassment). The USAF 2002 PEA describes the onset of TTS by a single explosion (impulse) based on the criterion in use at that time. Newly available information based on lab controlled experiments that used a seismic watergun to induce TTS in one beluga whale and one bottlenose dolphin (Finneran *et al.,* 2002) showed measured TTS_2 (TTS level 2 min after exposure) was 7 and 6 dB in the beluga

at 0.4 and 30 kHz, respectively, after exposure to intense single pulses at 226 dB re: 1 µPa p-p (peak to peak). This sound pressure level (SPL) is equivalent to 23 pounds per square inch (psi). Hearing threshold returned to within 2 dB of the pre-exposure value within 4 min of exposure. No TTS was observed in the bottlenose dolphin at the highest exposure condition (228 dB re 1 µPa p-p). Therefore, NMFS updated the SPL from impulse sound that could induce TTS to 23 psi, from the previous 12 psi. Table 10 in this document outlines the acoustic criteria used by NMFS when addressing noise impacts from explosives. These criteria remain consistent with criteria established for other activities in the EGTTR and other acoustic activities authorized under sections 101(a)(5)(A) and (D) of the MMPA. The 23 psi criterion is used in this document and NMFS' 2008 EA for evaluating the potential for the onset of TTS (Level B harassment) in marine mammals. Additional information on the derivation of the 23 psi criterion can be found in the *Final Environmental Impact Statement/Overseas Environmental Impact Statement for the Shock Trial of the Mesa Verde (LPD 19)* (Department of the Navy, 2008).

Anticipated Effects on Habitat

The primary source of marine mammal habitat impact is noise resulting from live PSW and AS gunnery missions. However, the noise does not constitute a long-term physical alteration of the water column or bottom topography, is not expected to affect prey availability, is of limited duration, and is intermittent in time. Surface vessels associated with the missions are present in limited duration and are intermittent as well. Therefore, it is not anticipated that marine mammal utilization of the waters in the study area will be affected, either temporarily or permanently, as a result of mission activities.

Other factors related to PSW and AS gunnery mission activities that could potentially impact marine mammal habitat include the introduction of fuel, debris, ordnance, and chemical materials into the water column. The potential effects of each were analyzed in the PSW Environmental Assessment and EGTTR Programmatic Environmental Assessment and determined to be insignificant. For a complete discussion of potential effects on habitat, please refer to pages 4–1 to 4–7 in the 2005 EA and section 4 of the 2002 PEA.

Proposed Mitigation

In order to issue an Incidental Take Authorization under section 101(a)(5)(A) and (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. The NDAA of 2004 amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''the least practicable adverse impact'' shall include consideration of personal safety, practicality of implementation, and the impact on the effectiveness of the ''military readiness activity.'' Training activities involving PSWs and AS gunnery are considered military readiness activities.

Eglin AFB would require mission proponents to employ mitigation measures, which are discussed below, in an effort to decrease the number of marine mammals potentially affected. Mitigation measures primarily consist of visual observation of applicable areas of the ocean surface to detect the presence of marine mammals. Eglin AFB has also assessed missions to identify opportunities for operational mitigations (e.g., modifications to the mission that potentially result in decreased impacts to protected species) while potentially sacrificing some mission flexibility.

Mitigation Proposed for PSW Activities

Visual monitoring would be required during PSW missions from surface vessels and aircraft. Based on the particular ordnance involved in a given training event, Eglin AFB would survey the largest applicable ZOI for the presence of marine mammals on each day of testing. For example, the largest possible ZOI associated with the JASSM is 2,490 m (summer) or 3,250 m (winter), based on the 182 dB EFD Level B harassment threshold range for a detonation at depths greater than 20 m. For SDB detonations, the largest ZOI would be between 447 m and 594 m, depending on season and whether the detonation is a single or double SDB, based on the 23 psi range.

Prior to the mission, trained Air Force personnel aboard an aircraft would visually survey the ZOI for the presence of marine mammals. Trained observers aboard surface support vessels would provide additional monitoring for marine mammals and indicators of the presence of marine mammals (e.g., large schools of fish). Because of safety issues, observers would be required to leave the test area prior to the commencement of detonations; therefore, the ZOI would not be surveyed for approximately one hour before detonation. To account for this, an additional buffer zone equal to the radius of the largest threshold range would be monitored for marine mammals.

Fair weather that supports the ability to observe marine mammals is necessary to effectively implement monitoring. Wind, visibility, and surface conditions of the GOM are the most critical factors affecting mitigation implementation. Higher winds typically increase wave height and create ''white cap'' conditions, both of which limit an observer's ability to locate marine mammals at or near the surface. PSW missions would be delayed if the sea state is greater than a force 3 on the Beaufort scale (see Table 11–1 of the application) at the time of the activity. Such a delay would maximize detection of marine mammals. Visibility is also an important factor for flight safety issues. A minimum ceiling of 305 m and visibility of 5.6 km would be required to support mitigation and flight safety concerns.

Survey Team

A survey team would consist of a combination of Air Force, and civil service/civilian personnel. Aerial and surface vessel monitoring would be conducted during all PSW missions. A survey team leader would be designated for surface vessel observations and video monitoring. The team leader would be an Eglin AFB Natural Resources Section representative or designee. Marine mammal sightings and other applicable information would be communicated from surface vessel observers and the video controller to the team leader, who would then relay this information to the test director. Aircraft-to-surface vessel communications are not likely to be available; therefore, marine mammal sightings from the aerial team would be communicated directly to the test director. The test director would be responsible for the overall mission and for all final decisions, including possible delays or relocations due to marine mammal sightings. The test director would, however, consult with the survey team leader regarding all issues related to marine mammals before making final decisions.

The survey teams would have open lines of communication to facilitate real-time reporting of marine mammals and other relevant information, such as

safety concerns. Direct communication between all personnel would be possible with the exception of aircraft-to-surface vessel communication, which would not be available. Survey results from the aircraft would be relayed to the test director, and results from the video feed and vessel surveys would be relayed to the team leader, who would coordinate with the test director. The team leader would also communicate recommendations to the test director.

Video Controller

Video monitoring may be conducted for some PSW missions. After consulting with the survey team leader, the test director will determine if video monitoring would be used to supplement monitoring from aircraft and vessels. If the decision is made to conduct video monitoring, PSW missions would be monitored from a land-based control center via live video feed. Under this scenario, video equipment would be placed on a barge or other appropriate platform located near the periphery of the test area. Video monitoring would, in addition to facilitating assessment of the mission, make remote viewing of the area for marine mammals possible. Although not part of the surface vessel survey team, the video controller would report any marine mammal sightings to the survey team leader. The entire ZOI may or may not be visible through the video feed, depending on the type of ordnance and specific location of the video equipment; therefore, video observation is considered supplemental to observation from aircraft and surface vessels.

Aerial Survey Team

Aircraft typically provide an excellent viewing platform for detection of marine mammals at or near the surface. The aerial survey team would consist of the aircrew (Air Force personnel) who would subsequently conduct the PSW mission. The pilot would be instructed on protected marine species survey techniques and would be familiar with marine species expected to occur in the area. One person in the aircraft would act as a data recorder and would be responsible for relaying the location, species (if possible), direction of movement, and number of animals sighted to the test director. The aerial team would also identify large schools of fish (which could indicate the potential for marine mammals to be in the area), and large, active groups of birds (which could indicate the presence of a large school of fish). The pilot would fly the aircraft in such a manner that the entire ZOI and buffer zone would be observed. Aerial observers would be expected to have adequate sighting conditions within the weather limitations noted above. The PSW mission would occur no earlier than two hours after sunrise and no later than two hours prior to sunset to ensure adequate daylight for pre- and post-mission monitoring.

Surface Vessel Survey Team

Marine mammal monitoring would be conducted from one or more surface vessels concurrent with aerial surveys in order to increase mitigation effectiveness. Monitoring activities would be conducted from the highest point feasible on the vessel. Vessel-based observers would be familiar with the area's marine life and would be equipped with optical equipment with sufficient magnification to allow observation of surfaced marine mammals. If the entire ZOI cannot be adequately observed from a stationary point, the surface vessel(s) would conduct transects to provide sufficient coverage.

Proposed Mitigation Plan

The applicable ZOI and buffer zone would be monitored for the presence of marine mammals and marine mammal indicators. Implementation of PSW mitigation measures would be regulated by Air Force safety parameters. Although unexpected, any mission may be delayed or aborted due to technical issues. In the event of a technical delay, all mitigation procedures would continue until either the mission takes place or is canceled. To ensure the safety of vessel-based survey personnel, the team would depart from the test area approximately one hour before the live mission commences.

Pre-Mission Monitoring

The purposes of pre-mission monitoring are to: (1) Evaluate the test site for environmental conditions suitable for conducting the mission; and (2) verify that the ZOI and buffer zone are free of visually detectable marine mammals, as well as potential indicators of the presence of these animals including large schools of fish and flocks of birds. On the morning of the test mission, the test director and survey team leader would confirm that there are no issues that would preclude proceeding with the mission and that the weather is adequate to support monitoring and mitigation measures.

Approximately Five Hours Pre-Mission to Daybreak

The surface vessel survey team would be on site near the test target approximately five hours prior to launch (no later than daybreak). Observers on board at least one vessel, including the team leader, would assess the overall suitability of the test site based on environmental conditions (e.g., wind, visibility, and sea surface conditions) and visual observations of marine mammals or indicators (e.g., large schools of fish or large flocks of active birds on or near the water). This information would be relayed to the test director.

Two Hours Prior to Mission

Aerial and vessel-based surveys would begin two hours prior to launch. Aerial-based observers would evaluate the test site for environmental suitability in addition to surveying for protected marine species. The aerial team would monitor the test site, including but not limited to the ZOI and buffer zone, and would record and relay species sighting information to the test director. Surface vessel-based observers would also monitor the ZOI and buffer zone, and the team leader would record all marine mammal sightings, including the time of sighting and direction of travel, if known. In addition to the primary survey vessel, additional vessels may be used for conducting surveys. Surveys would continue for approximately one hour.

One Hour Prior to Mission

Approximately one hour prior to launch, surface vessel-based observers would be instructed to leave the test site and remain outside of the safety area (10 nm) for the duration of the mission. The survey team would continue to monitor for marine mammals from outside the safety zone. The team leader would continue to record sightings and bearings for all marine mammals detected. The monitoring activities conducted outside of the safety area would be supplemental to marine mammal monitoring for mitigation purposes due to the distance from the target. During this time, the aircraft crew would begin cold sweeps, which consist of clearing the range and confirming technical parameters, among other things. During cold sweeps, the aerial crew would continue to be able to monitor for marine mammals, although this will not be their primary task. Any marine mammal sightings during this time would be reported to the test director.

During the PSW Mission

Immediately prior to commencement of the live portion of the PSW mission, the survey team leader and test director would communicate to confirm the

results of the marine mammal surveys and the appropriateness of proceeding with the mission. Although the test director, with input from the survey team leader, decides whether to postpone, move, or cancel the mission, the mission would be postponed if:

(1) Any marine mammal is visually detected within the ZOI. The delay would continue until the marine mammal(s) that triggered the postponement is/are confirmed to be outside of the ZOI due to the animal(s) swimming out of range.

(2) Any marine mammal is visually detected in the buffer zone and subsequently cannot be reacquired. Under this scenario, the mission would not continue until (a) the last verified location is outside of the ZOI and the animal is moving away from the mission area, or (b) the animal is not re-sighted for at least 15 minutes.

(3) Large schools of fish are observed in the water within the ZOI, or large flocks of active birds (potential indicator of fish presence) are observed on or near the surface of the water. The delay would continue until these potential indicators are confirmed to be outside the ZOI.

In the event of a postponement, pre-mission monitoring would continue as long as weather and daylight hours allow. The aircraft crew would not be responsible for marine mammal monitoring once the live portion of the mission begins.

Post PSW Mission Monitoring

Post-mission monitoring is designed to determine the effectiveness of pre-mission monitoring by reporting sightings of any dead or injured marine mammals. Post-detonation monitoring via surface vessel-based observers would commence immediately following each detonation. The vessel(s) would move into the ZOI from outside the safety zone and continue monitoring for at least 30 minutes, concentrating on the area down-current from the test site. The monitoring team would document any marine mammals that were killed or injured as a result of the test and, if practicable, coordinate with the regional marine mammal stranding response network to recover any dead animals for examination. The species, number, location, and behavior of any animals observed by the monitoring teams would be documented and reported to the team leader.

Mitigation Proposed for AS Gunnery Activities

Visual Monitoring

Areas to be used in AS gunnery missions would be visually monitored for marine mammal presence from the AC–130 aircraft prior to commencement of the mission. If the presence of one or more marine mammals is detected, the target area would be avoided. In addition, monitoring would continue during the mission. If marine mammals are detected at any time, the mission would halt immediately and relocate as necessary or be suspended until the marine mammal has left the area. Visual monitoring would be supplemented with infra-red (IR) and TV monitoring. As nighttime visual monitoring is generally considered to be ineffective at any height, the EGTTR missions will incorporate the TR.

Pre-Mission and Mission Monitoring

The AC–130 gunships travel to potential mission locations outside U.S. territorial waters (typically about 15 nm from shore) at an altitude of approximately 6,000 ft (1,829 m). The location of AS gunnery missions places these activities over shallower continental shelf waters where marine mammal densities are typically lower, and thus avoids the slope waters where more sensitive species (e.g., ESA-listed sperm whales) generally occur. After arriving at the target site, and prior to each firing event, the aircraft crew will conduct a visual survey of the 5-nm (9.3-km) wide prospective target area to attempt to sight any marine mammals that may be present (the crew will do the same for sea turtles and *Sargassum* rafts). The AC–130 gunship would conduct at least two complete orbits at a minimum safe airspeed around a prospective target area at a maximum altitude of 6,000 ft (1,829 m). Provided marine mammals (and other protected species) are not detected, the AC–130 would then continue orbiting the selected target point as it climbs to the mission testing altitude. The initial orbits occur over a time frame of approximately 15 minutes. Monitoring for marine mammals, vessels, and other objects would continue throughout the mission. If a towed target is used, Air Force Special Operations Command would ensure that the target is moved in such a way that the largest impact threshold does not extend beyond the 5 nm cleared area. In other words, the tow pattern would be conducted so that the maximum harassment range of 282 m (Table 8) is always within the 5 nm cleared area.

During the low altitude orbits and the climb to testing altitude, the aircraft crew would visually scan the sea surface within the aircraft's orbit circle for the presence of marine mammals. Primary emphasis for the surface scan would be upon the flight crew in the cockpit and personnel stationed in the tail observer bubble and starboard viewing window. During nighttime missions, crews would use night vision goggles during monitoring. The AC–130's optical and electronic sensors would also be employed for target clearance.

If any marine mammals are detected during pre-mission surveys or during the mission, activities would be immediately halted until the area is clear of all marine mammals for 60 minutes, or the mission would be relocated to another target area. If the mission is relocated, the survey procedures would be repeated at the new location. In addition, if multiple firing events occur within the same flight, these clearance procedures would precede each event.

Post-Mission Monitoring

Aircraft crews would conduct a post-mission survey beginning at the operational altitude of approximately 15,000 to 20,000 ft elevation and proceeding through a spiraling descent to approximately 6,000 ft. It is anticipated that the descent would occur over a 3- to 5-minute time period. During this time, aircrews would use the Infrared Detection Sets and low-light TV systems to scan the water surface for animals that may have been impacted during the gunnery exercise. During daytime missions, visual scans would be used as well.

Sea State Limitations

If daytime weather and/or sea conditions preclude adequate aerial surveillance for detecting marine mammals and other marine life, AS gunnery exercises would be delayed until adequate sea conditions exist. Daytime live fire missions would be conducted only when sea surface conditions are sea state 4 or less on the Beufort scale (see Table 11–1 in the LOA application).

Operational Mitigation Measures

Eglin AFB has identified three operation mitigation measures for implementation during AS gunnery missions, including development of a training round, use of ramp-up procedures, and limitations on the number of missions conducted over the waters beyond the continental shelf. The largest type of ammunition used during typical gunnery missions is the 105-mm round containing 4.7 lbs of high explosive (HE). This is several times more HE then that found in the next largest round (40 mm). As a mitigation technique, the USAF developed a 105-mm TR that contains

only 0.35 lb (0.16 kg) of HE. The TR was developed to dramatically reduce the risk of harassment at night and Eglin AFB anticipates a 96 percent reduction in impact by using the 105-mm TR (Table 11).

TABLE 11—EXAMPLES OF MITIGATION EFFECTIVENESS USING THE 105 MM TRAINING ROUND

Threshold (dB)	105 mm TR (~0.3 lbs HE)		105 mm FU (~4.7 lbs HE)		Mitigation (percent reduction)	
	ZOI (km^2)	Affected animals (#)	ZOI (km^2)	Affected animals (#)	ZOI %	Affected animals (%)
160	6.8	40.9	179.2	1,078.8	96	96

The ramp-up procedure refers to the process of beginning an activity with the least impactive action and proceeding to subsequently more impactive actions. The rationale for requiring ramp-up procedures is that this process may allow animals to perceive steadily increasing noise levels and to react, if necessary, before the noise reaches a threshold of significance. In the case of AS gunnery activities, ramp-up procedures involve beginning a mission with the lowest caliber munition and proceeding to the highest, which means the munitions would be fired in the order of 25 mm, 40 mm, and 105 mm.

The AC–130 gunship's weapons are used in two activity phases. First, the guns are checked for functionality and calibrated. This step requires an abbreviated period of live fire. After the guns are determined to be ready for use, the mission proceeds under various test and training scenarios. This second phase involves a more extended period of live fire and can incorporate use of one or any combination of the munitions available (25-, 40-, and 105-mm rounds).

The ramp-up procedure shall be required for the initial gun calibration, and, after this phase, the guns may be fired in any order. Eglin AFB and NMFS believe this process will allow marine species the opportunity to respond to increasing noise levels. If an animal leaves the area during ramp-up, it is unlikely to return while the live-fire mission is proceeding. This protocol allows a more realistic training experience. In combat situations, gunship crews would not likely fire the complete ammunition load of a given caliber gun before proceeding to another gun. Rather, a combination of guns would likely be used as required by an evolving situation. An additional benefit of this protocol is that mechanical or ammunition problems on an individual gun can be resolved while live fire continues with functioning weapons. This also diminishes the possibility of a lengthy pause in live fire, which, if greater than 10 min, would necessitate Eglin's re-initiation of protected species surveys.

Many marine mammal species found in the GOM, including the ESA-listed sperm whale, occur with greater regularity in waters over and beyond the continental shelf break. As a conservation measure to avoid impacts to sperm whales, Eglin AFB would conduct only one mission per year beyond the 200 m isobaths, which is considered to be the shelf break. This measure is expected to provide greater protection to several other marine mammal species as well. Eglin AFB has established a line delineating the shelf break, with coordinates of N 29°42.73′ W 86°48.27′ and N 29°12.73′ W 85°59.88′ (see Figure 1–12 in Eglin's LOA application). A maximum of only one mission per year would occur south of this line. The exposure analysis assumed that the single mission beyond the shelf break would occur during the day, so that 105 mm FU rounds would be used.

Proposed Monitoring and Reporting

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

For PSW and AS gunnery missions, prospective mission sites would be monitored for the presence of marine mammals prior to the commencement of activities. Monitoring would continue throughout gunnery missions and up to one hour prior to the launch of ordnance for PSW missions, and post-mission surveys would be conducted after all missions. Monitoring would be conducted using visual surveys from aircraft and, for PSW mission, surface vessels and aircraft using monitoring enhancement instruments (including the IDS and low-light TV systems). If marine mammals are detected during pre-mission monitoring (up to one hour prior to ordnance launch for PSW missions) or during the mission for AS, activities would be immediately halted until the area is clear of all marine mammals, or for AS gunnery the mission would be relocated to another area.

In addition to monitoring for marine mammals before, during, and after missions, the following monitoring and reported measures would be required:

(1) Aircrews would participate in the marine mammal species observation training. Each crew members would be required to complete the training prior to participating in a mission. Observers would receive training in protected species survey and identification techniques.

(2) Eglin AFB Natural Resources Section would track use of the EGTTR and protected species observations through the use of mission reporting forms.

(3) For AS gunnery missions, coordinate with next-day flight activities to provide supplemental post-mission observations for marine mammals in the operations area of the previous day.

(4) A summary annual report of marine mammal observations and mission activities would be submitted to the NMFS Southeast Regional Office (SERO) and the NMFS Office of Protected Resources either at the time of a request for renewal of an LOA or 90 days after expiration of the current authorization if a new permit is not requested. This annual report would include the following information: (i) Date and time of each exercise; (ii) a complete description of the pre-exercise and post-exercise activities related to mitigating and monitoring the effects of mission activities on marine mammal populations; (iii) results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of missions and number of marine

mammals (by species if possible) that may have been harassed due to presence within the activity zone; and (iv) for AS gunnery missions, a detailed assessment of the effectiveness of sensor-based monitoring in detecting marine mammals in the area of A–S gunnery operations.

(5) If any dead or injured marine mammals are observed or detected prior to testing, or injured or killed during mission activities, a report would be made to NMFS by the following business day.

(6) Any unauthorized takes of marine mammals (i.e., mortality) would be immediately reported to NMFS and to the respective stranding network representative.

Research

Although Eglin AFB does not currently conduct independent studies, Eglin's Natural Resources Section participates in marine mammal tagging and monitoring programs lead by other agencies. In addition, the Natural Resources Section supports participation in annual surveys of marine mammals in the GOM with NMFS. From 1999 to 2002, Eglin AFB, through a contract representative, participated in summer cetacean monitoring and research efforts. The contractor participated in visual surveys in 1999 for cetaceans in the GOM, photo-identification of sperm whales in the northeastern Gulf in 2001, and as a visual observer during the 2000 Sperm Whale Pilot Study and the 2002 sperm whale Satellite–tag (S–tag) cruise. Eglin AFB's Natural Resources Section has also obtained funding from the Department of Defense for two marine mammal habitat modeling projects. One such project (Garrison, 2008) included funding for and extensive involvement of NMFS personnel to apply the most recent aerial survey data to habitat modeling and protected species density estimates in the northeastern GOM.

Based on this information, NMFS has preliminarily determined that the proposed PSW and AS gunnery mission activities will not have any impact on the food or feeding success of marine mammals in the northern GOM. Additionally, no loss or modification of the habitat used by cetaceans in the GOM is expected. Marine mammals are anticipated to temporarily vacate the area of live fire events. However, these events usually do not last more than 90 to 120 min at a time, and animals are anticipated to return to the activity area during periods of non-activity. Thus, the proposed activity is not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or on the food sources that they utilize.

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

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Negligible Impact Analysis and Preliminary Determinations

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].

The NDAA's definition of harassment as it applies to a military readiness activity is: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

We propose to authorize take by Level A and Level B harassment for the proposed activities. There is no evidence that planned activities could result in serious injury or mortality within the specified geographic area for the requested authorization. The required mitigation and monitoring measures would minimize any potential risk for serious injury or mortality.

Pursuant to our regulations implementing the MMPA, an applicant is required to estimate the number of animals that will be ''taken'' by the specified activities (i.e., takes by harassment only, or takes by harassment, injury, and/or death). This estimate informs the analysis that we must perform to determine whether the activity will have a ''negligible impact'' on the species or stock. 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 making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) The number of anticipated serious injuries and mortalities; (2) the number and nature of anticipated injuries (Level A harassment); (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the takes occur.

As mentioned previously, NMFS estimates that six species of marine mammals could be potentially affected by Level A or Level B harassment over the course of the five-year period. No take by serious injury or death is anticipated or would be authorized. By incorporating the proposed mitigation measures, including monitoring and shut-down procedures described previously, impacts to individual marine mammals from the proposed activities are expected to be limited to Level A (injury) or Level B (TTS and behavioral) harassment.

The USAF has described its specified activities based on best estimates of the number of hours that the USAF will conduct PSW and AS gunnery missions. The exact number of missions may vary from year to year, but will not exceed the annual totals indicated in Tables 1 and 2.

Taking the above into account, considering the sections discussed further, and dependent upon the implementation of the proposed mitigation measures, NMFS has preliminarily determined that the total level of incidental take authorized for PSW and AG gunner missions over the five-year effective period of the regulations will have a negligible impact on the six marine mammal species and stocks affected in operational areas in the Gulf of Mexico.

The U.S. Air Force complied with the requirements of the previous LOAs and IHAs issued for PSW and AS gunnery activities, and reported zero observed takes of marine mammals incidental to these training exercises. For this proposed rulemaking, NMFS has preliminarily determined that, based on the information provided in Eglin's application, the Final PEA and this document, the total taking of marine mammals by PSW and AS gunnery activities will have a negligible impact on the affected species or stocks over

the 5-year period of take authorizations. No take by serious injury or mortality is anticipated during this period, and no take by serious injury or mortality is proposed to be authorized.

In addition, the potential for temporary or permanent hearing impairment and injury is low and through the incorporation of the proposed mitigation measures specified in this document would have the least practicable adverse impact on the affected species or stocks. The information contained in Eglin's EA, PEA, and incidental take application support NMFS' finding that impacts will be mitigated by implementation of a conservative safety range for marine mammal exclusion, incorporation of aerial and shipboard survey monitoring efforts in the program both prior to and after detonation of explosives, and delay/postponement/cancellation of detonations whenever marine mammals or other specified protected resources are either detected within the safety zone or may enter the safety zone at the time of detonation or if weather and sea conditions preclude adequate aerial surveillance. Since the taking would not result in more than the incidental harassment of certain species of marine mammals, will have only a negligible impact on these stocks, will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses (as there are no known subsistence uses of marine mammal stocks in the GOM), and, through implementation of required mitigation and monitoring measures, will result in the least practicable adverse impact on the affected marine mammal stocks, NMFS has preliminarily determined that the requirements of section 101(a)(5)(A) of the MMPA have been met and this proposed rule can be issued.

The proposed number of animals taken for each species can be considered small relative to the population size. Based on the best available information, NMFS proposes to authorize take, by Level B harassment only, of 2,200 bottlenose dolphin (444 annually), 1,765 Atlantic spotted dolphin (353 annually), 15 pantropical spotted dolphin (3 annually), 15 spinner dolphin (3 annually), 10 dwarf/pygmy sperm whale (2 annually), representing 4.9, 5.7, 0.02, 0.12, and 1.3 percent of the populations, respectively. However, this represents an overestimate of the number of individuals harassed over the duration of the proposed rule and LOAs because these totals represent much smaller numbers of individuals that may harassed multiple times. In addition, NMFS proposes to authorize take, by Level A harassment, of 25 bottlenose dolphin (5 annually) and 20 Atlantic spotted dolphin (4 annually). No stocks known from the action area are listed as threatened or endangered under the ESA or otherwise considered depleted. Five bottlenose dolphin stocks designated as strategic under the MMPA may be affected by AS gunnery activities. In this case, under the MMPA, strategic stock means a marine mammal stock for which the level of direct human-caused mortality exceeds the potential biological removal level. These include Pensacola/East Bay, Choctawhatchee Bay, St. Andrew Bay, St. Joseph Bay, and St. Vincent Sound/Apalachicola Bay/St. George Sound stocks; however, large numbers of dolphins would not be affected because the missions generally occur more than 15 miles (24 km) from shore. No serious injury or mortality is anticipated, nor is the proposed action likely to result in long-term impacts such as permanent abandonment or reduction in presence with the EGTTR. No impacts are expected at the population or stock level.

Endangered Species Act (ESA)

No ESA-listed marine mammals are known to occur within the action area. Therefore, there is no requirement for NMFS to consult under Section 7 of the ESA on the promulgation of regulations and issuance of LOAs under section 101(a)(5)(A) of the MMPA. However, ESA-listed sea turtles may be present within the action area. On October 20, 2004 and March 14, 2005, NMFS issued Biological Opinions (BiOps) on AS gunnery and PSW exercises in the EGTTR, respectively. The BiOps, which are still in effect, concluded that AS gunnery and PSW exercises are unlikely to jeopardize the continued existence of the endangered green turtle (*Chelonia mydas*), leatherback turtle (*Dermochelys coriacea*), Kemp's ridley turtle (*Lepidochelys kempii*), or threatened loggerhead turtle (*Caretta caretta*). No critical habitat has been designated for these species in the action area; therefore, none will be affected.

National Environmental Policy Act (NEPA)

AS Gunnery Missions

The USAF prepared a Final PEA in November 2002 for the AS gunnery activities within the EGTTR. NMFS made the USAF's 2002 Final PEA available upon request on January 23, 2006 (71 FR 3474). In accordance with NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS reviewed the information contained in the USAF's 2002 Final PEA, and determined that the document accurately and completely described the proposed action, the alternatives to the proposed action, and the potential impacts on marine mammals, endangered species, and other marine life that could be impacted by the preferred alternative and the other alternatives. Accordingly, NMFS adopted the USAF's 2002 Final PEA and made its own FONSI on May 16, 2006. In the course of adopting the USAF's 2002 Final PEA and reach a FONSI NMFS took into consideration updated data and information contained in NMFS' **Federal Register** document noting issuance of an IHA to Eglin AFB for this activity (71 FR 27695, May 12, 2006), and previous notices (71 FR 3474, January 23, 2006; 70 FR 48675, August 19, 2005) and determined that the proposed action had not changed substantially or presented new circumstances or environmental concerns such that supplemental NEPA analysis was necessary.

The issuance of the 2008 IHA to Eglin AFB amended three of the mitigation measures for reasons of practicality and safety, therefore, NMFS reviewed the USAF's 2002 Final PEA and determined that a new EA was warranted to address: (1) The proposed modifications to the mitigation and monitoring measures; (2) the use of 23 psi as a change in the criterion for estimating potential impacts on marine mammals from explosives; and (3) a cumulative effects analysis of potential environmental impacts from all GOM activities (including Eglin mission activities), which was not addressed in the USAF's 2002 Final PEA. Therefore, NMFS prepared a new EA in December 2008 and issued a FONSI for its action on December 9, 2008. NMFS has reviewed the environmental impacts on the human environment presented by this rulemaking and annual LOAs to Eglin AFB and found that they are not substantially different from the action analyzed in Eglin's EA. No new incremental change would occur under this new authority. NMFS has preliminarily determined that the proposed action has not changed substantially and that no significant new circumstances or environmental concerns bearing on the proposed action or its impacts exist. As the environmental impacts for this proposed action fall within the scope of the NMFS 2008 EA. NMFS presently does not intend to issue a new EA, a supplemental EA, or an environmental

impact statement for the issuance of a LOA to Eglin AFB to take marine mammals incidental to this activity. NMFS, however, will review all comments submitted by the public in response to this notice before making a final determination on the need to supplement the 2008 EA and whether to reaffirm the FONSI.

PSW Missions

In December 2003, Eglin AFB released a Draft PEA on PSW activities within the EGTTR. On April 22, 2004 (69 FR 21816), NMFS noted that Eglin AFB had prepared a Draft PEA for PSW activities and made this PEA available upon request. Eglin AFB updated the information in that PEA and issued a Final PEA and a Finding of No Significant Impact (FONSI) on the PSW activities. NMFS reviewed the information contained in Eglin AFB's Final PEA and determined that the PEA accurately and completely describes the preferred action alternative, a reasonable range of alternatives, and the potential impacts on marine mammals, endangered species, and other marine life that could be impacted by the preferred and non-preferred alternatives. Based on this review and analysis, NMFS has preliminarily determined that this proposed rule is within the scope of the Eglin AFB PEA and intends to adopt the PEA for this proposed action. The impacts on the human environment by issuance of this rulemaking and annual LOAs to Eglin AFB are not substantially different from the action analyzed in Eglin's PEA and as no new incremental change would occur under this new authority. NMFS has therefore preliminarily determined that the proposed action has not changed substantially and that no significant new circumstances or environmental concerns bearing on the proposed action or its impacts exist. As the environmental impacts for this proposed action fall within the scope of the Eglin AFB PEA. NMFS has preliminarily determined that it is not necessary to issue a new EA or supplemental EA, for promulgation of this rule and issuance of a LOA to Eglin AFB to take marine mammals incidental to this activity. NMFS, however, will review all comments submitted by the public in response to this notice before making a final determination on the need to prepare a separate EA or supplement the Eglin AFB PEA and make an independent FONSI.

Having reviewed the information in the past **Federal Register** notices issuing IHAs and regulations for the proposed activities, public comments submitted in response to them, as well as the serious of EAs discussed above, NMFS does not anticipate that a comprehensive authorization for the incidental take of marine mammals for both PWS and AS gunnery exercises is likely to result in new or significant cumulative impacts. We will consider comments submitted by the public on this issue.

Request for Information

NMFS requests interested persons to submit comments, information, and suggestions concerning Eglin's application and this proposed rule (see **ADDRESSES**). All comments will be reviewed and evaluated as NMFS prepares a final rule and makes final determinations on whether to issue the requested authorization. In addition, this notice and referenced documents provide all environmental information relevant to our proposed action for the public's review and we solicit comments which we will also consider as we make final NEPA determinations.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This proposed rule would apply only to the U.S. Air Force, a Federal agency, which is not considered to be a small governmental jurisdiction, small organization or small business, as defined by the Regulatory Flexibility Act. This rulemaking authorizes Eglin Air Force Base to take of marine mammals incidental to a specified activity. The specified activity defined in the proposed rule includes the use of explosive detonations, which are only used by the U.S. military, during training activities that are only conducted by the U.S. Air Force. Additionally, any requirements imposed by a Letter of Authorization issued pursuant to these regulations, and any monitoring or reporting requirements imposed by these regulations, will be applicable only to Eglin Air Force Base.

This action may indirectly affect a small number of contractors providing services related to reporting the impact of the activity on marine mammals, some of whom may be small businesses, but the number involved would not be substantial. Further, since the monitoring and reporting requirements are what would lead to the need for their services, the economic impact on any contractors providing services relating to reporting impacts would be beneficial. Because the Chief Counsel for Regulation certified that this proposed rule would not have significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 217

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

Dated: April 30, 2013.

Alan D. Risenhoover,

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

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

PART 217—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

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

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

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

Subpart L—Taking Marine Mammals Incidental to Conducting Precision Strike Weapon and Air-to-Surface Gunnery Missions at Eglin Gulf Test and Training Range (EGTTR) in the Gulf of Mexico

Sec.

Subpart L—Taking Marine Mammals Incidental to Conducting Precision Strike Weapon and Air-to-Surface Gunnery Missions at Eglin Gulf Test and Training Range (EGTTR) in the Gulf of Mexico

§ 217.110 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Air Force for the incidental taking of marine mammals

that occurs in the area outlined in paragraph (b) of this section and that occur incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Air Force is only authorized if it occurs within the Eglin Air Force Base Gulf Test and Training Range (as depicted in Figure 1–9 of the Air Force's Request for a Letter of Authorization). The EGTTR is the airspace over the Gulf of Mexico beyond 3 nm from shore that is controlled by Eglin Air Force Base. The specified activities will take place within the boundaries of Warning Area W–151. The inshore and offshore boundaries of W–151 are roughly parallel to the shoreline contour. The shoreward boundary is 3 nm from shore, while the seaward boundary extends approximately 85 to 100 nm offshore, depending on the specific location. W–151 has a surface area of approximately 10,247 nm^2 (35,145 km^2), and includes water depths ranging from approximately 20 to 700 m.

(c) The taking of marine mammals by the Air Force is only authorized of it occurs incidental to the following activities within the designated amounts of use:

(1) The use of the following Precision Strike Weapons (PSWs) for PSW training activities, in the amounts indicated below:

(i) Joint Air-to-Surface Stand-Off Missile (JASSM) AGM–158 A and B—two live shots (single) and 4 inert shots (single) per year;

(ii) Small-diameter bomb (SDB) GBU–39/B—six live shots per year, with two of the shots occurring simultaneously, and 12 inert shots per year, with up to two occurring simultaneously.

(2) The use of the following ordnance for daytime Air-to-Surface (AS) Gunnery training activities, in the amounts indicated below:

(i) 105 mm HE Full Up (FU)—25 missions per year with 30 rounds per mission

(ii) 40 mm HE—25 missions per year with 64 rounds per mission

(iii) 25 mm HE—25 mission per year with 560 rounds per mission

(3) The use of the following ordnance for nighttime Air-to-Surface (AS) Gunnery training activities, in the amounts indicated below:

(i) 105 mm HE Training Round (TR)—45 missions per year with 30 rounds per mission

(ii) 40 mm HE—45 missions per year with 64 rounds per mission

(iii) 25 mm HE—45 mission per year with 560 rounds per mission

§ 217.111 Effective dates.

Regulations in this subpart are effective from [Insert date of publication of the final rule in the **Federal Register**] until [*Insert date 5 years after date of publication of the final rule in the* **Federal Register**].

§ 217.112 Permissible methods of taking.

(a) Under a Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by Level A and Level B harassment within the area described in § 217.110(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The activities identified in § 217.110(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impact on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 217.110(c) is limited to the following species, by the indicated method of take and the indicated number:

(1) *Level B harassment.*

(i) Atlantic bottlenose dolphin (*Tursiops truncatus*)—2,200 (an average of 444 annually).

(ii) Atlantic spotted dolphin (*Stenella frontalis*)—1,765 (an average of 353 annually).

(iii) Pantropical spotted dolphin (*S. attenuate*)—15 (an average of 3 annually).

(iv) Spinner dolphin (*S. longirostris*)—15 (an average of 3 annually).

(v) Dwarf or pygmy sperm whale (*Kogia simus or Kogia breviceps*)—10 (an average of 2 annually).

(2) *Level A harassment.*

(i) Atlantic bottlenose dolphin (*Tursiops truncatus*)—25 (an average of 5 annually).

(ii) Atlantic spotted dolphin (*Stenella frontalis*)—20 (an average of 4 annually).

§ 217.113 Prohibitions.

No person in connection with the activities described in § 217.110 shall:

(a) Take any marine mammal not specified in § 217.112(c);

(b) Take any marine mammal specified in § 217.112(c) other than by incidental take as specified in § 217.112(c)(1) and (c)(2);

(c) Take a marine mammal specified in § 217.112(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under §§ 216.106 and 217.117 of this chapter.

§ 217.114 Mitigation.

(a) The activities identified in § 217.110(c) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in § 217.110(c), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.117 of this chapter must be implemented.

(b) *Precision strike weapon missions*—(1) *Safety zones.*

(i) For the JASSM, the Air Force must establish and monitor a safety zone for marine mammals with a radius of 2.0 nm (3.7 km) from the center of the detonation and a buffer zone with a radius of 1.0 nm (1.85 km) radius from the outer edge of the safety zone.

(ii) For the SDB, the holder of the Letter of Authorization must establish and monitor a safety zone for marine mammals with a radius of no less than 5 nm (9.3 km) for single bombs and 10 nm (18.5 km) for double bombs and a buffer zone from the outer edge of the safety zone with a radius of at least 2.5 nm (4.6 km) for single bombs and 5 nm (18.5 km) for double bombs.

(2) For PSW missions, the holder of the Letter of Authorization must comply with the monitoring requirements, including pre-mission monitoring, set forth in § 217.115(c).

(3) When detonating explosives:

(i) If any marine mammals or sea turtles are observed within the designated safety zone or the buffer zone prescribed in paragraph (b)(1) of this section or that are on a course that will put them within the safety zone prior to JASSM or SDB launch, the launching must be delayed until all marine mammals are no longer within the designated safety zone.

(ii) If any marine mammals are detected in the buffer zone and subsequently cannot be reacquired, the mission launch will not continue until the next verified location is outside of the safety zone and the animal is moving away from the mission area.

(iii) If large Sargassum rafts or large concentrations of jellyfish are observed within the safety zone, the mission launch will not continue until the Sargassum rafts or jellyfish that caused the postponement are confirmed to be outside of the safety zone due to the current and/or wind moving them out of the mission area.

(iv) If weather and/or sea conditions preclude adequate aerial surveillance for detecting marine mammals or sea turtles, detonation must be delayed until adequate sea conditions exist for aerial surveillance to be undertaken. Adequate sea conditions means the sea state does not exceed Beaufort sea state 3.5 (i.e., whitecaps on 33 to 50 percent of surface; 0.6 m (2 ft) to 0.9 m (3 ft) waves), the visibility is 5.6 km (3 nm) or greater, and the ceiling is 305 m (1,000 ft) or greater.

(v) To ensure adequate daylight for pre- and post-detonation monitoring, mission launches may not take place earlier than 2 hours after sunrise, and detonations may not take place later than 2 hours prior to sunset, or whenever darkness or weather conditions will preclude completion of the post-test survey effort described in § 217.115.

(vi) If post-detonation surveys determine that a serious injury or lethal take of a marine mammal has occurred, the test procedure and the monitoring methods must be reviewed with the National Marine Fisheries Service and appropriate changes to avoid unauthorized take must be made prior to conducting the next mission detonation.

(vii) Mission launches must be delayed if aerial or vessel monitoring programs described under § 217.115 cannot be fully carried out.

(c) *Air-to-surface gunnery missions*—(1) *Sea state restrictions.*

(i) If daytime weather and/or sea conditions preclude adequate aerial surveillance for detecting marine mammals and other marine life, air-to-surface gunnery exercises must be delayed until adequate sea conditions exist for aerial surveillance to be undertaken. Daytime air-to-surface gunnery exercises will be conducted only when sea surface conditions do not exceed Beaufort sea state 4 (i.e., wind speed 13–18 mph (11–16 knots); wave height 1 m (3.3 ft)), the visibility is 5.6 km (3 nm) or greater, and the ceiling is 305 m (1,000 ft) or greater.

(ii) [Reserved]

(2) *Pre-mission and mission monitoring.*

(i) The aircrews of the air-to-surface gunnery missions will initiate location and surveillance of a suitable firing site immediately after exiting U.S. territorial waters (>12 nm).

(ii) Prior to each firing event, the aircraft crew will conduct a visual and/or instrument survey of the 5-nm (9.3-km) wide prospective target area to locate any marine mammals that may be present.

(A) The AC–130 gunship will conduct at least two complete orbits at a minimum safe airspeed around a prospective target area at an altitude of approximately 6,000 ft (1,829 m).

(B) If marine mammals are not detected, the AC–130 can then continue orbiting the selected target point as it climbs to the mission testing altitude.

(C) During the low altitude orbits and the climb to testing altitude, aircraft crew will scan the sea surface within the aircraft's orbit circle for the presence of marine mammals.

(D) The AC–130's optical and electronic sensors must be employed for target detection, especially at night when visibility will be poor.

(E) If any marine mammals are detected within the AC–130's orbit circle, either during initial clearance or after commencement of live firing, the mission will be immediately halted and relocated as necessary or suspended until the marine mammal has left the area. If relocated to another target area, the clearance procedures described in paragraph (c)(2)(ii) of this section must be repeated.

(F) If multiple firing events occur within the same flight, these clearance procedures must precede each event.

(iii) If no marine mammals are detected, gunnery exercises may begin with the deployment of MK–25 flares into the center of the designated 5-nm target area.

(3) *Operational mitigation measures.*

(i) Ramp-up air-to-surface gunnery firing activities by beginning with the lowest caliber monition and proceeding to the highest, which means the munitions would be fired in the following order: 25 mm; 40 mm; and 105 mm.

(ii) Air-to-surface gunnery exercises conducted after sunset must use the 105-mm training round instead of the 105-mm full up round.

(iii) One mission per year may be conducted beyond the 200 m isobaths, which is south of a line delinated the shelf break with coordinates of 29°42.73′ N, 86°48.27′ W and 29°12.73′ N, 85°59.88′ W (Figure 1–12 in Eglin AFB's LOA application). The single mission beyond the shelf break will occur during daylight hours only.

(4) *Post-mission monitoring.*

(i) Aircrews will initiate the post-mission clearance procedures beginning at the operational altitude of approximately 15,000 to 20,000 ft (4572 to 6096 m) elevation, and then initiate a spiraling descent down to an observation altitude of approximately 6,000 ft (1,829 m) elevation. Rates of descent will occur over a 3- to 5-minute time frame.

(ii) If post-detonation surveys determine that an injury or lethal take of a marine mammal has occurred, the test procedure and the monitoring methods must be reviewed with the National Marine Fisheries Service and appropriate changes to avoid unauthorized take must be made, prior to conducting the next air-to-surface gunnery exercise.

§ 217.115 Requirements for monitoring and reporting.

(a) The Holder of the Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter for activities described in § 217.110(c) is required to conduct the monitoring and reporting measures specified in this section and § 217.114 and any additional monitoring measures contained in the Letter of Authorization.

(b) The Holder of the Letter of Authorization is required to cooperate with the National Marine Fisheries Service, and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, National Marine Fisheries Service, or designee, by letter or telephone (301–427–8401), at least 2 weeks prior to any modification to the activity identified in § 217.110(c) that has the potential to result in the serious injury, mortality or Level A or Level B harassment of a marine mammal that was not identified and addressed previously.

(c) *Monitoring procedures for PSW missions.*

(1) The Holder of this Authorization must:

(i) Designate qualified on-site individual(s) to record the effects of mission launches on marine mammals that inhabit the northern Gulf of Mexico;

(ii) Have on-site individuals, approved in advance by the National Marine Fisheries Service, to conduct the mitigation, monitoring and reporting activities specified in these regulations and in the Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter.

(iii) Conduct aerial surveys to reduce impacts on protected species. The aerial survey/monitoring team will consist of two experienced marine mammal observers, approved in advance by the Southeast Region, National Marine Fisheries Service. The aircraft will also have a data recorder who would be responsible for relaying the location, the species if possible, the direction of

movement, and the number of animals sighted.

(iv) Conduct shipboard monitoring to reduce impacts to protected species. Trained observers will conduct monitoring from the highest point possible on each mission or support vessel(s). The observer on the vessel must be equipped with optical equipment with sufficient magnification (e.g., 25X power ''Big-Eye'' binoculars).

(2) The aerial and shipboard monitoring teams will maintain proper lines of communication to avoid communication deficiencies. The observers from the aerial team and operations vessel will have direct communication with the lead scientist aboard the operations vessel.

(3) Pre-mission monitoring: Approximately 5 hours prior to the mission, or at daybreak, the appropriate vessel(s) would be on-site in the primary test site near the location of the earliest planned mission point. Observers onboard the vessel will assess the suitability of the test site, based on visual observation of marine mammals and sea turtles, the presence of large Sargassum mats, seabirds and jellyfish aggregations and overall environmental conditions (visibility, sea state, etc.). This information will be relayed to the lead scientist.

(4) Three hours prior to mission:

(i) Approximately three hours prior to the mission launch, aerial monitoring will commence within the test site to evaluate the test site for environmental suitability. Evaluation of the entire test site would take approximately 1 to 1.5 hours. The aerial monitoring team will begin monitoring the safety zone and buffer zone around the target area.

(ii) Shipboard observers will monitor the safety and buffer zone, and the lead scientist will enter all marine mammals and sea turtle sightings, including the time of sighting and the direction of travel, into a marine animal tracking and sighting database.

(5) One to 1.5 hours prior to mission launch:

(i) Depending upon the mission, aerial and shipboard viewers will be instructed to leave the area and remain outside the safety area. The aerial team will report all marine animals spotted and their directions of travel to the lead scientist onboard the vessel.

(ii) The shipboard monitoring team will continue searching the buffer zone for protected species as it leaves the safety zone. The surface vessels will continue to monitor from outside of the safety area until after impact.

(6) Post-mission monitoring:

(i) The vessels will move into the safety zone from outside the safety zone and continue monitoring for at least two hours, concentrating on the area down current of the test site.

(ii) The holder of the Letter of Authorization will closely coordinate mission launches with marine animal stranding networks.

(iii) The monitoring team will document any dead or injured marine mammals or turtles and, if practicable, recover and examine any dead animals.

(d) *Monitoring procedures for A–S gunnery missions.* In addition to the monitoring requirements in § 217.114(c), the holder of the Letter of Authorization must:

(1) Cooperate with the National Marine Fisheries Service and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals.

(2) Require aircrews to initiate the post-mission clearance procedures beginning at the operational altitude of approximately 15,000 to 20,000 ft (4572 to 6096 m) elevation, and then initiate a spiraling descent down to an observation altitude of approximately 6,000 ft (1,829 m) elevation. Rates of descent will occur over a 3- to 5-minute time frame.

(3) Track their use of the EGTTR for test firing missions and marine mammal observations, through the use of mission reporting forms.

(4) Coordinate air-to-surface gunnery exercises with future flight activities to provide supplemental post-mission observations of marine mammals in the operations area of the exercise.

(e) In accordance with provisions in § 217.118(b)(2), the Holder of the Letter of Authorization must conduct the research required under the Letter of Authorization.

(f) *Reporting.*

(1) Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must conduct all of the monitoring and reporting required under the LOA and submit an annual report to the Director, Office of Protected Resources, National Marine Fisheries Service by a date certain specified in the LOA. This report must include the following information:

(i) Date and time of each PSW/air-to-surface gunnery exercise;

(ii) A complete description of the pre-exercise and post-exercise activities related to mitigating and monitoring the effects of PSW/air-to-surface gunnery exercises on marine mammal populations;

(iii) Results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the training exercises and number of marine mammals (by species if possible) that may have been harassed due to presence within the applicable safety zone;

(iv) A detailed assessment of the effectiveness of sensor-based monitoring in detecting marine mammals in the area of air-to-surface gunnery operations; and

(v) Results of coordination with coastal marine mammal stranding networks.

(2) The final comprehensive report on all marine mammal monitoring and research conducted during the period of these regulations must be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service at least 240 days prior to expiration of these regulations or 240 days after the expiration of these regulations if new regulations will not be requested.

§ 217.116 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. citizen (as defined at § 216.103 of this chapter) conducting the activities identified in § 217.110(c) must apply for and obtain either an initial Letter of Authorization in accordance with §§ 216.106 and 217.117 of this chapter or a renewal under § 217.118 of this chapter.

§ 217.117 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

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

(3) Requirements for monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the species or stock of affected marine mammals.

§ 217.118 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 and § 217.117 of this chapter for the activities identified in § 217.110(c) will be renewed based upon:

(1) Notification to the National Marine Fisheries Service that the activity

described in the application submitted under § 217.116 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming period of validity;

(2) Timely receipt (by the dates indicated in the Letter of Authorization issued under this subpart) of the monitoring report required under § 217.115(f); and

(3) A determination by the National Marine Fisheries Service that the mitigation, monitoring and reporting measures required under § 217.114 and the Letter of Authorization issued under §§ 216.106 and 217.117 of this chapter, were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 217.118 of this chapter indicates that a substantial modification to the described work, mitigation, monitoring or research undertaken during the upcoming season will occur, the National Marine Fisheries Service will provide the public a period of 30 days for review and seek comment on:

(1) New cited information and data that indicates that the determinations made for promulgating these regulations are in need of reconsideration, and

(2) Proposed changes to the mitigation, monitoring and research requirements contained in these regulations or in the current Letter of Authorization.

§ 217.119 Modifications to Letters of Authorization.

(a) Except as provided in paragraphs (b) and (c) of this section, no substantive modification (including withdrawal or suspension) to a Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 217.118, without modification (except for the period of validity), is not considered a substantive modification.

(b) NMFS in response to new information and in consultation with Eglin AFB, may modify the mitigation or monitoring measures in LOAs if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from Eglin AFB's monitoring from the previous year (either from the EGTTR or other locations).

(2) Results from specific stranding investigations.

(3) Results from general marine mammals and sound research.

(4) Any information that reveals marine mammals may have been taken in a manner, extent, or number not anticipated by these regulations or Letters of Authorization.

(c) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.112(c), a Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** within 30 days subsequent to the action.

[FR Doc. 2013–10700 Filed 5–6–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120907427–3403–01]

RIN 0648–BC51

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Reef Fish Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). If implemented, this rule would revise the vermilion snapper recreational bag limit, revise the yellowtail snapper stock annual catch limit (ACL), and remove the requirement for reef fish vessels to have onboard and use a venting tool. This proposed rule is intended to help achieve optimum yield (OY) and prevent overfishing of vermilion and yellowtail snappers, reduce the regulatory burden to fishers associated with venting reef fish, and minimize bycatch and bycatch mortality.

DATES: Written comments must be received on or before June 6, 2013.

ADDRESSES: You may submit comments on this document, identified by ''NOAA–NMFS–2013–0038'', 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-2013-0038,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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 file formats only.

Electronic copies of the framework action, which includes an environmental assessment, regulatory impact review, and Regulatory Flexibility Act analysis, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/GrouperSnapperandReefFish.htm.*

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, NMFS, telephone 727–824–5305; email: *Peter.Hood@noaa.gov*.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, OY from

federally managed fish stocks. The Magnuson-Stevens Act also requires that management measures shall, to the extent practicable, minimize bycatch and bycatch mortality. The reauthorized Magnuson-Stevens Act, as amended through January 12, 2007, requires the councils to establish ACLs for each stock/stock complex as well as accountability measures (AMs) to ensure that these ACLs are not exceeded. This proposed rule addresses these requirements by: (1) Establishing a 10-vermilion snapper recreational bag limit within the 20-fish aggregate reef fish bag limit; (2) increasing the Gulf yellowtail snapper ACL from 725,000 lb (328,855 kg), round weight, to 901,125 lb (408,743 kg), round weight; and (3) removing the requirement to have onboard and use venting tools when releasing reef fish. All weights discussed in this proposed rule are in round weight.

Management Measures Contained in This Proposed Rule

This proposed rule would revise the yellowtail snapper stock ACL, revise the vermilion snapper recreational bag limit, and remove the requirement for a Gulf reef fish vessel to have a venting tool onboard and for it to be used for venting reef fish.

Vermilion Snapper Recreational Bag Limit

Vermilion snapper are currently included within the Gulf reef fish aggregate recreational bag limit of 20 fish. The Council's Reef Fish Advisory Panel (RFAP) recommended that the Council take action to constrain the recreational harvest of vermilion snapper because of significant recent increases in recreational landings. In 2011, recreational landings were approximately 1.15 million lb (521,631 kg), compared to 457,000 lb (207,292 kg) in 2010. The Council decided that the vermilion snapper bag limit should be restricted to 10 fish within the overall 20-fish aggregate reef fish bag limit to help constrain vermilion snapper recreational harvest.

The Council reasoned that while the proposed 10-fish bag limit would not necessarily reduce the current overall recreational harvest of vermilion snapper, it would serve to prevent the recreational harvest from increasing at a rate that could result in the vermilion snapper stock ACL being met before the end of the fishing year. If this occurred, AMs would be triggered that would close the recreational sector for vermilion snapper for the remainder of the fishing year. Additionally, this proposed bag limit is consistent with the vermilion snapper bag limit implemented by the Florida Fish and Wildlife Conservation Commission. The revised bag limit would help to constrain recreational harvests to minimize the opportunity for ACL to be exceeded by slowing the rate of potential future increases in the recreational harvest.

Yellowtail Snapper ACL

In the Gulf, the yellowtail snapper ACL is not allocated between the commercial and recreational sectors but is managed with a single stock ACL. Additionally, because yellowtail snapper in the U.S. comprise a single stock, landings from both the South Atlantic and Gulf regions are combined for stock assessment purposes. The resulting acceptable biological catch (ABC) is allocated among both regions with 75 percent of the ABC assigned to South Atlantic jurisdiction and 25 percent of the ABC to Gulf jurisdiction. Currently, the stock ABC is 2.9 million lb (1.3 million kg), with 725,000 lb (328,855 kg) allocated to the Gulf. This Gulf ABC value is used to determine the Gulf yellowtail snapper stock ACL, where the ACL is equal to the ABC, which was established through the Gulf's Generic ACL/AM Amendment (76 FR 82044, December 29, 2011).

In 2012, the Florida Fish and Wildlife Research Institute (FWRI) conducted a benchmark stock assessment of yellowtail snapper. The assessment was reviewed by the Scientific and Statistical Committees (SSCs) of both the Gulf Council and the South Atlantic Fishery Management Council. The assessment indicated that the yellowtail snapper stock was not overfished or undergoing overfishing. As a result of that stock status and the fact that the yellowtail snapper biomass is greater than what is needed to support harvesting at the maximum sustainable yield, both Councils SSCs determined the yellowtail snapper ABC would be based on equilibrium harvest levels that remain constant and do not fluctuate from year to year. Therefore, the SSCs agreed to set the overall stock ABC at 4.05 million lb (1.94 million kg). Using the 25 percent Gulf allocation of the overall stock ABC, the ABC for the Gulf was determined to be 1.0125 million lb (0.4593 million kg).

The Council considered three alternatives in setting the Gulf yellowtail snapper ACL. These were: (1) Maintaining the ACL at its current level; (2) setting the ACL equal to the Gulf allocation of the ABC; or (3) applying the Council's ACL control rule to the ABC to account for management uncertainty. The Council decided to apply the ACL control rule which reduced the ACL by 11 percent from the Gulf allocation of the ABC. This resulted in a proposed Gulf stock ACL of 901,125 lb (408,743 kg).

Venting Tools

A venting tool is a device intended to deflate the abdominal cavity of a fish in order to release the fish with minimal damage. Currently, Gulf reef fishermen must possess venting tools onboard and use them when releasing reef fish. This measure was implemented through Amendment 27 to the FMP (73 FR 5117, January 29, 2008). The venting tool requirement was implemented to reduce bycatch and discard mortality in the reef fish fishery. However, several recent scientific studies have questioned the usefulness of venting tools in preventing discard mortality in fish, particularly those caught in deep waters. In addition, some fish caught in shallow waters may not need to be vented, and attempts at venting may damage fish by improper venting techniques and increased handling time while the fish are out of the water. Finally, the current requirement to use a venting tool may prevent fishermen from using other devices such as fish descenders, which are devices that take the fish back to depth without puncturing them. Because of these factors, the Council voted to remove the venting tool requirement for the Gulf reef fishery. This would provide fishermen with more discretion when they release reef fish but does not prohibit the use of venting tools or other release devices by fishers.

Additional Management Measure Contained in the Framework Action

Vermilion snapper are not allocated between the commercial and recreational sectors in the Gulf and are managed with a single stock ACL. The current ACL for the Gulf vermilion snapper stock is 3.42 million lb (1.55 million kg) and was set through the the Gulf's Generic ACL/AM Amendment (76 FR 82044, December 29, 2011). This ACL was established based on 1999–2008 landings data and was adjusted to account for scientific and management uncertainty per the Council's ABC and ACL control rules developed in the Generic ACL/AM Amendment.

In 2011, a vermilion snapper update stock assessment was performed through the Southeast Data, Assessment, and Review (SEDAR) process (SEDAR Update 2011c). This assessment used data up through 2010. The assessment indicated that the stock was not overfished nor undergoing overfishing. Based on the SEDAR update assessment,

the Council's SSC recommended that the vermilion snapper stock ABC be set at 4.41 million lb (2.00 million kg) in 2013, 4.34 million lb (1.97 million kg) in 2014, and 4.33 million lb (1.96 million kg) in 2015, 2016, and subsequent years.

The Council reviewed several alternatives for setting the Gulf vermilion snapper stock ACL that ranged from maintaining it at the current 3.42 million lb (1.55 million kg) to setting it equal to the ABC. The RFAP and public testimony from vermilion snapper fishermen to the Council indicated that the stock condition appeared to be declining in recent years. Given this information, and considering that the last year of data used in the update assessment was 2010, the Council recommended, as a precaution, not to increase the vermilion snapper stock ACL at this time. Therefore the vermilion snapper stock ACL will remain at 3.42 million lb (1.55 million kg).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the framework action, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule, if implemented, would not have a significant adverse economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purposes of this rule are: (1) To adjust the ACL for the yellowtail snapper stock consistent with the ABC recommendations of the SSC; (2) set the vermilion snapper recreational bag limit at a level that minimizes the risk of overfishing by the recreational sector; and (3) modify the regulations requiring possession and use of venting tools by the reef fish fishery to minimize bycatch and bycatch mortality. The framework action also considered adjusting the ACL for vermilion snapper; however, the Council voted to retain the current ACL for this species. The need for the proposed actions is to prevent overfishing while achieving the OY of vermilion and yellowtail snapper on a continuing basis and to the extent practicable, and to minimize bycatch and the mortality of released fish in the reef fish fishery. The Magnuson-Stevens Act provides the statutory basis for the proposed action.

No duplicative, overlapping, or conflicting Federal rules have been identified.

The rule would apply directly to businesses in the Finfish Fishing Industry (NAICS 114111) that harvest vermilion snapper and yellowtail snapper in Gulf Federal waters. As of November 2012, there were 814 individuals with a Gulf of Mexico Commercial Reef Fish Permit. These 814 individuals are presumed to represent 814 businesses in the Finfish Fishing Industry that would be affected by this rule. According to SBA Size Standards, a business in the Finfish Fishing Industry is a small business if its annual receipts are less than $4 million. NMFS presumes for this rule that a substantial number of the 814 businesses are small businesses.

This rule would not establish any new reporting or recordkeeping requirements. The preferred alternative (the no action alternative) for the action to revise the vermilion snapper stock ACL would maintain the vermilion snapper ACL at its current value; therefore, this action would have no beneficial or adverse economic impact beyond the status quo. The preferred alternative for the action to revise the vermilion snapper recreational bag limit would reduce the number of vermilion snapper that recreational fishermen can land within the daily aggregate reef fish recreational bag limit, so it would have no direct impact on commercial fishing businesses. The preferred alternative for the action to revise the yellowtail snapper stock ACL would increase the yellowtail snapper stock ACL from 725,000 lb (328,855 kg) to 901,125 lb (408,743 kg), an increase of 176,125 lb (79,889 kg, which would allow for increased landings of and revenues from yellowtail snapper. The preferred alternative for the reef fish venting tool requirement action would remove the need to have a venting tool onboard and to be used when releasing reef fish. This would then eliminate the time and cost of acquiring, learning how to use, and using a venting tool. Consequently, the combined proposed actions would not have a significant adverse economic impact on a substantial number of small businesses because they are expected to generate a net economic benefit to small businesses.

The alternatives the Council did not select for the action to revise the vermilion snapper stock ACL would increase the ACL for vermilion snapper, which would generate larger short-term economic benefits, but likely smaller long-term economic benefits than the preferred alternative.

One considered but rejected alternative for the action to revise the yellowtail snapper stock ACL would allow for smaller increases in yellowtail snapper landings, and therefore, would generate smaller potential net economic benefits than the preferred alternative. Another considered but rejected alternative would have allowed for larger increases in yellowtail snapper landings, and would have generated larger potential net economic benefits in the short-run; however, it could have smaller net economic benefits in the long-run.

Lastly, the considered but rejected alternatives for the reef fish venting tool requirements, would retain all or part of the economic costs of complying with the current venting requirement, and therefore would have less economic benefit than the preferred alternative.

This rule would not be expected to significantly reduce the profits of any small entities. Because this rule, if implemented, is not expected to have significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Incorporation by reference, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 30, 2013.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.30, paragraph (c) is removed and the introductory paragraph is revised to read as follows:

§ 622.30 Required fishing gear.

For a person on board a vessel to fish for Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified in paragraphs (a) and (b) of this section.

* * * * *

■ 3. In § 622.38, paragraph (b)(5) is revised to read as follows:

§ 622.38 Bag and possession limits.

* * * * *

(b) * * *

(5) *Gulf reef fish, combined, excluding those specified in paragraphs (b)(1) through (b)(4) and paragraphs (b)(6) through (b)(7) of this section*—20. In addition, within the 20-fish aggregate reef fish bag limit, no more than 2 fish may be gray triggerfish and no more than 10 fish may be vermilion snapper.

* * * * *

■ 4. In § 622.41, the second sentence of paragraph (n) is revised to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

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(n) * * * The stock ACL for yellowtail snapper is 901,125 lb (408,743 kg), round weight.

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[FR Doc. 2013–10699 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 78, No. 88
Tuesday, May 7, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Conduct an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to conduct a new information collection, the Pesticide Safety Practices Among Pennsylvania Farms Survey.

DATES: Comments on this notice must be received by July 8, 2013 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–NEW, Pesticide Safety Practices Among Pennsylvania Farms Survey by any of the following methods:

- *Email: ombofficer@nass.usda.gov*. Include docket number and title above in the subject line of the message.
- *Fax:* (202)720–6396.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336A, Mail Stop 2024, South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Pesticide Safety Practices Among Pennsylvania Farms Survey.

OMB Control Number: 0535–NEW.

Type of Request: Intent to Seek Approval to Conduct a New Information Collection.

Abstract: The primary objectives of the National Agricultural Statistics Service (NASS) are to prepare and issue state and national estimates of crop production, livestock production, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys. This project is conducted as a cooperative effort with the National Institute for Occupational Safety and Health (NIOSH) National Personal Protective Technology Laboratory (NPPTL). Funding for this pilot survey is being provided by NIOSH. The pilot survey will be conducted in the fall of 2014, referencing the growing season for 2014.

NASS will request approval from the Office of Management and Budget (OMB) for the Pesticide Safety Practices Among Pennsylvania Farms Survey.

The Pesticide Safety Practices Among Pennsylvania Farms Survey will use a sampling universe defined as crop growers in Pennsylvania. To be eligible for study, they must have personally applied herbicides, growth regulators, or any other type of pesticides in the past 6 months using a method other than helicopters, airplanes, or equipment pulled by enclosed cab tractors or ATVs. The primary goals of the project are: (1) to determine the extent to which Pennsylvania crop growers use appropriate personal protective equipment (PPE) practices; appropriate PPE practices include the correct type of PPE and using it properly, (2) when applicable, to identify the factors that cause incorrect PPE practices, and (3) when applicable, identify the factors that would motivate a crop grower to start using correct practices. Findings will lead to improved training efforts and other actions to improve PPE practices among Pennsylvania crop growers. In the future, this survey may be administered in other states depending on the results and future funding.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33376.

Estimate of Burden: This survey will be conducted in a two step process. First, the screening phase will consist of an information letter, blank screening form, and a postage paid return envelope, which will be mailed out to the selected sample (approximately 3,000 crop growers). Finally, we will select approximately 300 operations from the screening phase to conduct the Pesticide Safety Practices Among Pennsylvania Farms Survey.

Public reporting burden for collecting this information is estimated to average 15 minutes per respondent for a completed screening questionnaire, and an average of 50 minutes per respondent for the follow-up survey for the subsample. NASS will attempt to achieve a minimum response rate of 80% completed reports for each phase of the survey. Additional burden will be added to account for the pre-survey materials.

Respondents: Pennsylvania crop producers who applied pesticides in the past 6 months using a method other than helicopters, airplanes, or equipment pulled by enclosed cab tractors or ATVs.

Estimated Number of Respondents: 3,000.

Estimated Total Annual Burden on Respondents: 1,100 hours.

Copies of this information collection and related instructions can be obtained without charge from the NASS OMB Clearance Officer, at (202) 720–2248.

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 will have practical utility; (b) 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) 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 those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, April 24, 2013.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. 2013–10710 Filed 5–6–13; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Conduct an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to conduct a new information collection, the Wheat and Barley Scab Control Practices Survey.

DATES: Comments on this notice must be received by July 8, 2013 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–NEW, Wheat and Barley Scab Control Practices Survey by any of the following methods:

- *Email: omboffi cer@nass.usda.gov.* Include docket number and title above in the subject line of the message.
- *Fax:* (202)720–6396
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336A, Mail Stop 2024, South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Wheat and Barley Scab Control Practices Survey.

OMB Control Number: 0535—NEW.

Type of Request: Intent to Seek Approval to Conduct a New Information Collection.

Abstract: The primary objectives of the National Agricultural Statistics Service (NASS) are to prepare and issue State and national estimates of crop production, livestock production, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and it's follow-on surveys. This project is conducted as a cooperative effort with the United States Wheat and Barley Scab Initiative which is funded by USDA's Agricultural Research Service (ARS).

NASS will request approval from the Office of Management and Budget (OMB) to conduct a Wheat and Barley Scab Control Practices Survey. This survey is being conducted as a pilot.

The Wheat and Barley Scab Control Practices Survey will use a sampling universe defined as producers that harvest wheat or barley in the following States: AR, IL, IN, KS, KY, MD, MI, MN, MO, NE, NY, NC, ND, OH, PA, SD, and VA. The goal of the overall project is to determine the economic factors which influence scab control measures. Specifically, we hope to determine which practices are utilized to control scab with relation to the types of farms that employ those practices. Data from the initial survey in 2014 may be used as a baseline to compare future surveys against. The next survey will take place in 2016 depending on the results of the first survey and funding. Furthermore, ARS will be able to use the data from this survey to determine the effectiveness of the United States Wheat and Barley Scab Initiative (*http://www.scabusa.org*).

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33376.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per respondent for a completed questionnaire. NASS will be sending out a survey letter to the respondents with a blank questionnaire for the respondent to review prior to the actual data collection by a phone enumerator. NASS will attempt to achieve a minimum response rate of 80% completed reports. Additional burden will be added to account for the pre-survey materials.

Respondents: Farmers, ranchers, and farm managers that harvest wheat or barley in the following States: AR, IL, IN, KS, KY, MD, MI, MN, MO, NE, NY, NC, ND, OH, PA, SD, and VA.

Estimated Number of Respondents: 32,400.

Estimated Total Annual Burden on Respondents: 15,400 hours.

Copies of this information collection and related instructions can be obtained without charge from the NASS OMB Clearance Officer, at (202) 720–2248.

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 will have practical utility; (b) 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) 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 those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, April 24, 2013.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. 2013–10707 Filed 5–6–13; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the program at 7 CFR part 4284, Subpart F, Rural Cooperative Development Grant program.

DATES: Comments on this notice must be received by July 8, 2013 to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Chadwick O. Parker, Deputy Administrator, Cooperative Programs, Rural Development, USDA, STOP 3252, Room 4016-South, 1400 Independence Avenue SW., Washington, DC 20250–3252. Telephone: (202) 720–7558, Email: *chad.parker@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Rural Cooperative Development Grants.

OMB Number: 0570–0006.

Expiration Date of Approval: September 30, 2013.

Type of Request: Extension of currently approved information collection.

Abstract: Rural Cooperative Development Grant program applicants must provide required information to demonstrate eligibility for the program and compliance with applicable laws and regulations. Grantees are required to provide progress reports for the duration of the grant agreement to ensure continued compliance and to measure the success of the program.

Estimate of Burden: Public reporting burden for this collection is estimated to average 30 hours per response.

Estimated Number of Respondents: 73

Estimated Number of Responses per Respondent: 1

Estimated Number of Responses: 295

Estimated Total Burden on Respondents: 8,911 hours

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, at (202) 692–0042.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of RBS functions, including whether the information will have practical utility; (b) the accuracy of RBS' estimate of the burden of the proposed collection of 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 burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, Stop 0742, 1400 Independence Ave. SW., Washington, DC 20250. 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.

Dated: April 29, 2013.

Lillian Salerno,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2013–10785 Filed 5–6–13; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[4/23/2013 through 5/1/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
1154 Lill Studios, Inc.	1511 W. 38th Street, Chicago, IL 60609.	4/23/2013	The firm manufactures multiple styles of women's handbags.
Atlas Feed Mills, Inc	816 Grant Avenue, Breaux Bridge, LA 70517.	4/23/2013	Firm manufactures animal feeds for wholesale and retail outlets via bagged or bulk out feeds.
Electronic Sensors, Inc	2063 S. Edwards Street, Wichita, KS 67213.	4/29/2013	Firm manufactures liquid level monitoring systems, including wireless and wired industrial sensors.
Langley Empire Candle, LLC	2925 Fairfax Trfy, Kansas City, KS 66115.	4/30/2013	Firm manufactures candles made of wax and gel produced on a separate production line using different processes.
Duffin Manufacturing Company.	316 Warden Avenue, Elyria, OH 44036.	4/30/2013	Firm manufactures turned and machined metal plumbing components, often from brass such as pneumatic fittings.
Duramold Castings, Inc.	1901 N. Bendix Dr., South Bend, IN 46628.	4/26/2013	The firm manufactures metal and mixed material components, such as fittings, tubes, and containment tanks.
GMP Plating, Inc.	740 Jarvis Drive, Morgan Hill, CA 95037.	5/1/2013	Firm provides metal finishing services such as zinc plating, anodizing, chemical film, and passivate QQ P35 C.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: May 1, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–10782 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–952]

Narrow Woven Ribbon With Woven Selvedge From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is rescinding the administrative review of the antidumping duty order on narrow woven ribbon with woven selvedge from the People's Republic of China (''PRC'') for the period September 1, 2011, through August 31, 2012.

DATES: *Effective Date:* May 7, 2013.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Robert Bolling, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone: (202) 482–4081 or (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2012, based on timely requests for review by Berwick Offray LLC and its wholly-owned subsidiary Lion Ribbon Company, Inc. (''Petitioner''), Weifang Dongfang Ribbon Weaving Co., Ltd. (''Weifang Dongfang'') and Yangzhou Bestpak Gifts & Crafts Co., Ltd. (''Yangzhou Bestpak''), the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on narrow woven ribbon with woven selvedge from the PRC covering the period September 1, 2011, through August 31, 2012.[1] The review covers 10 companies: Weifang Dongfang, Yangzhou Bestpak, Hubscher Ribbon Corp., Ltd. d/b/a Hubschercorp, Pacific Imports, Apex Ribbon, Apex Trimmings Inc. d/b/a Papillon Ribbon & Bow (Canada), Intercontinental Skyline, Multicolor, Supreme Laces Inc., Yama Ribbons, and Bows Co., Ltd.

On December 28, 2012, Yangzhou Bestpak and on January 26, 2013, Weifang respectively withdrew their own requests for an administrative review. On January 29, 2013, Petitioner withdrew its request for an administrative review of the remaining eight companies.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, Yangzhou Bestpak, Weifang Dongfang, and Petitioner withdrew their requests within the 90-day deadline and no other parties requested an administrative review of the antidumping duty order. Therefore, we are rescinding the administrative review of narrow woven ribbon with woven selvedge from the PRC for the period September 1, 2011, through August 31, 2012.

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. Because the Department is rescinding this administrative review in its entirety, the entries to which this administrative review pertained shall be assessed antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 65858 (October 31, 2012) (''*Initiation Notice*'').

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a final reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 29, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–10809 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 130425411–3411–01]

Notice To Extend the Deadline for Applications for the Ocean Exploration Advisory Board (OEAB)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice; Extension of Deadline.

SUMMARY: OAR publishes this notice to extend the deadline for persons with appropriate education, interest, and/or experience to submit applications to become a member of the OEAB. The purpose of the OEAB is to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters pertaining to ocean exploration

including: The identification of priority areas that warrant exploration; the development and enhancement of technologies for exploring the oceans; managing the data and information; and disseminating the results. The OEAB will also provide advice on the relevance of the program with regard to the NOAA Strategic Plan, the National Ocean Policy Implementation Plan, and other relevant guidance documents.

DATES: Application materials should be sent to the address, email, or fax specified and must be received no later than 5:00 p.m., Eastern Time, on June 6, 2013.

ADDRESSES: Submit resume and application materials to Yvette Jefferson via mail, fax, or email. Mail: NOAA, 1315 East-West Highway, SSMC3 Rm. 10315, Silver Spring, MD 20910; Fax: 301–713–1967; email: *Yvette.Jefferson@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Yvette Jefferson, NOAA, 1315 East-West Highway, SSMC3 Rm. 10315, Silver Spring, MD 20910; Fax: 301–713–1967; email: *Yvette.Jefferson@noaa.gov;* Telephone: 301–734–1002.

SUPPLEMENTARY INFORMATION: NOAA's Ocean Exploration Program (OE) is part of the NOAA Office of Ocean Exploration and Research. The mission of the OE is to increase the Nation's understanding of the world's largely unknown ocean through interdisciplinary expeditions and projects to investigate unknown and poorly known ocean areas and phenomena.

Specific goals include:

(1) Mapping and characterizing physical, chemical, and biological ocean environments, as well as submerged cultural history;

(2) Investigating ocean dynamics and interactions in new places and at new scales;

(3) Developing new ocean sensors and systems to increase the pace and efficiency of ocean exploration; and

(4) Disseminating information to a broad spectrum of users through formal and informal education and outreach programs.

For more information on OE please visit the Web sites: *http://Oceanexplorer.noaa.gov* and *http://explore.noaa.gov.* On October 29, 2012, NOAA published a notice in the **Federal Register** soliciting applications for membership on the OEAB (77 FR 65536). After reviewing the applications received to date, NOAA has decided to extend the deadline for submissions to achieve balance across the diverse sectors of the ocean exploration community. If you have already submitted an application for the OEAB, you do not need to do anything else at this time.

This notice extends the deadline for submitting applications for membership on the OEAB. The purpose of the OEAB is to advise the Under Secretary of Commerce for Oceans and Atmosphere (Under Secretary), who is also the Administrator of NOAA, on matters pertaining to ocean exploration including: The identification of priority areas that warrant exploration; the development and enhancement of technologies for exploring the oceans; managing the data and information; and, disseminating the results. The OEAB will also provide advice on the relevance of the program with regard to the NOAA Strategic Plan, the National Ocean Policy Implementation Plan, and other relevant guidance documents.

Authority to Which the Committee Reports: The Board will report to the Under Secretary, as directed by Section 12005 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) part of the Omnibus Public Land Management Act of 2009 (33 U.S.C. 3405). The OEAB shall function solely as an advisory body in accordance with the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App., with the exception of section 14.

Description of Duties: The Board shall:

a. Advise the Under Secretary on all aspects of ocean exploration including areas, features, and phenomena that warrant exploration; and other areas of program operation, including development and enhancement of technologies for exploring the ocean, managing ocean exploration data and information, and disseminating the results to the public, scientists, and educators;

b. Assist the program in the development of a 5-year strategic plan for the fields of ocean, marine, and Great Lakes science, exploration, and discovery, as well as making recommendations to NOAA on the evolution of the plan based on results and achievements;

c. Annually review the quality and effectiveness of the proposal review process established under Section 12003(a)(4); and

d. Provide other assistance and advice as requested by the Under Secretary.

Points of View: The OEAB will consist of approximately ten members including a Chair and Co-chair, designated by the Under Secretary in accordance with FACA requirements. Consideration will be given to candidates who are experts in fields relevant to ocean exploration, including ocean scientists, engineers and technical experts, educators, social scientists, and communications experts. Membership will be open to all individuals who have degrees, professional qualifications, scientific credentials, national reputations, international reputations, or relevant experience that will enable them to provide expert advice concerning the OE's roles within the context of NOAA's ocean missions and policies. Members will be appointed for 3-year terms, renewable once, and serve at the discretion of the Under Secretary. The Chair and Co-chair will serve 3-year terms renewable once. Initial appointments will include: Four members serving an initial 3-year term, three members serving an initial 4-year term and three members serving an initial 5-year term. All renewals will be 3-year terms. If a member resigns before the end of his or her first term, the vacancy appointment shall be for the remainder of the unexpired term, and shall be renewable twice if the unexpired term is less than one year.

Members will be appointed as special government employees (SGEs) and will be subject to the ethical standards applicable to SGEs. Members are reimbursed for actual and reasonable expenses incurred in performing such duties but will not be reimbursed for their time.

As a Federal Advisory Committee the OEAB's membership is required to be balanced in terms of viewpoints represented and the functions to be performed as well as including the interests of geographic regions of the country and the diverse sectors of our society.

The OEAB will meet two times each year, exclusive of subcommittee, task force, and working group meetings.

Applications

An application is required to be considered for OEAB membership. To apply, submit a current resume (maximum length 4 pages) as indicated in the **ADDRESSES** section that includes: (1) The applicant's full name, title, institutional affiliation, and contact information (mailing address, email, telephones, fax); (2) the applicant's area(s) of expertise; and (3) a short description of his/her qualifications relative to the kinds of advice being solicited. A cover letter stating their interest in serving on the OEAB and highlighting specific areas of expertise relevant to the purpose of the OEAB is required.

Dated: April 30, 2013.

Jason Donaldson,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–10828 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

Draft NOAA Five Year Research and Development Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Draft NOAA Five Year Research and Development Plan for Public Review.

SUMMARY: NOAA's draft Five Year Research and Development Plan is available for public review and comment until June 3, 2013. This plan will guide NOAA's research and development activities over the next five years, from 2013–2017. The Plan provides a common understanding among NOAA's leadership, workforce, partners, constituents, and Congress on how the agency's R&D creates value. This plan will help NOAA and the public monitor and evaluate the agency's progress and learn from its experiences.

ADDRESSES: The draft can be found at *http://nrc.noaa.gov/CouncilProducts/ResearchPlans.aspx*.

For further information please contact *oar.rc.execsec@noaa.gov*.

Dated: April 30, 2013.

Jason Donaldson,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–10831 Filed 5–6–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC660

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Groundfish Management Team (GMT) will hold a webinar to discuss the potential reorganization of stock complexes.

DATES: The webinar call will be held Wednesday, May 22, 2013 from 1:30 p.m. until business for the day has been completed.

ADDRESSES: The meeting will be held via webinar. To attend the GMT meeting, please reserve your seat by visiting: *https://www2.gotomeeting.com/register/868468890.* If requested, enter your name, email address, and the webinar ID, which is 868468890. Once registered, participants will receive a confirmation email message that contains detailed audio and viewing information about the event. To only join the audio teleconference of the webinar from the U.S. or Canada, call the toll number +1 (415) 655–0051 (note: This is not a toll-free number) and use the access code 802–457–985 when prompted.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Kelly Ames or Mr. John DeVore, Staff Officers, Pacific Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The objective of the meeting is to review analysis designed to inform the potential reorganization of groundfish stock complexes. The GMT is tentatively scheduled to report their findings to the Pacific Council at their June 2013 meeting in Garden Grove, CA.

Although non-emergency issues not contained in the meeting agenda may come before the GMT for discussion, those issues may not be the subject of formal GMT action during this meeting. GMT action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the GMT's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: May 1, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–10708 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC664

Mid-Atlantic Fishery Management Council (Council); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Council will hold public meetings in Narragansett, Rhode Island (RI) and Cape May, New Jersey (NJ) to get public input on potential changes to squid (longfin and *Illex*) assessment and management.

DATES: The Narragansett, RI meeting will be on May 22, 2013 from 10 a.m. to approximately noon, but may go later if necessary. The Cape May, NJ meeting will be on June 5, 2013 from 7 p.m. to approximately 9 p.m. but may go later if necessary.

ADDRESSES: The Narragansett, RI meeting will be held at Superior Trawl, 55 State Street, Narragansett, RI 02882, telephone: (401) 263–3671. The Cape May, NJ meeting will be held at the Congress Hall Hotel, 29 Perry St, Cape May, NJ 08204; telephone: (888) 944–1816.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: In January 2013, the Council held a workshop on squid (longfin and Illex) assessment and management. The workshop brought fishermen, managers, and academics together to discuss potential ways to make squid management more responsive to current conditions. A summary and additional materials from the workshop are available at: *http://www.mafmc.org/workshop/squid-management-workshop-january-2013.* Several recommendations came out of the workshop, including getting

additional input from fishermen in convenient locations. These meetings address that recommendation and will solicit input from attendees on all of the potential ways to improve squid assessment and management that were recommended at the workshop.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: May 2, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–10751 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Public Comment Period for the Grand Bay, Mississippi National Estuarine Research Reserve Management Plan and the Delaware National Estuarine Research Reserve Management Plan revisions.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce is announcing a thirty day public comment period for the Grand Bay, Mississippi National Estuarine Research Reserve Management Plan and the Delaware National Estuarine Research Reserve Management Plan revisions. Pursuant to 15 CFR Section 921.33(c), the revised plans will bring the reserves into compliance. The Grand Bay Reserve and Delaware Reserve revised plans will replace the plans approved in 1999 and 2004 respectively. Both revised management plans outline the administrative structure; the research & monitoring, education, training, and stewardship goals of the reserve; and the plans for future land acquisition and facility development to support reserve operations. The Grand Bay Reserve takes an integrated approach to management, linking research, education, training and stewardship functions to address high priority issues including climate change, threats to reserve resources and ecological functions, watershed development, and changes in water quality. Since the last management plan, the reserve has built out its core programs and monitoring infrastructure; constructed a L.E.E.D. certified Coastal Resources Center that includes laboratories, offices, classrooms, interpretative areas and dormitories; and created interpretive trails.

With the approval of this management plan, the Grand Bay Reserve will decrease their total acreage from 18,400 acres to 18,049. The change is attributable to accuracy adjustments based on improved geographic information for the site. The revised management plan will serve as the guiding document for the 18,049 acre Grand Bay Reserve for the next five years. The Delaware management plan will focus on improving the scientific understanding of estuarine and coastal ecosystems; improving public awareness and environmental literacy to enable environmentally sustainable decision-making; and protecting, managing and restoring the reserve to serve as a model site for sustainable community stewardship. Notable changes in the revised plan include a boundary expansion, a new coastal training program, implementation of the Blackbird Creek Reserve Master Ecological Restoration Plan, the opening of the Blackbird Creek Stewardship Center and facility improvements to the St. Jones Coastal Training Center. With the approval of this management plan, the Delaware Reserve will increase their total acreage from 4,930 acres to 6,206. The change is attributable to acquisition of two parcels, totaling 64.3 acres, and increased mapping accuracy. The two parcels possess high ecological value and increased opportunities for research, education, and restoration. The revised management plan will serve as the guiding document for the 6,206 acre Delaware Reserve for the next five years. View the Grand Bay, Mississippi Reserve Management Plan revision at (*http://grandbaynerr.org/reserve-management-plan*) and provide comments to (*dave.ruple@dmr.ms.gov*). View the Delaware Reserve Management Plan revision at (*http://de.gov/dnerr*) and provide comments to (*Kimberly.Cole@state.de.us*).

FOR FURTHER INFORMATION CONTACT: Matt Chasse at (301) 563–1198 (Grand Bay), Michael Migliori at (301) 563–1126 (Delaware) or Laurie McGilvray at (301) 563–1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

Dated: April 25, 2013.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management.

[FR Doc. 2013–10372 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC661

National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration; Northwest Fisheries Science Center; Online Webinar

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

ACTION: Notice of online webinar.

SUMMARY: The Northwest Fisheries Science Center (NWFSC) will hold an online Pre-Assessment Workshop webinar to provide an overview of the data sources, data trends and population models that will be used in the upcoming Pacific coast groundfish stock assessments for rougheye rockfish, aurora rockfish, shortspine thornyhead and longspine thornyhead. The online NWFSC Pre-Assessment Workshop webinar is open to the public, although space for online access is limited to the first 25 participants.

DATES: The NWFSC Pre-Assessment Workshop webinar will commence at 1 p.m. PST, Tuesday, May 28, 2013 and continue until 4 p.m. or as necessary to complete business for the day.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for specific addresses and all other necessary information pertaining to the webinar.

Science Center address: Northwest Fisheries Science Center, 2725 Montlake Boulevard East, Seattle, WA 98112.

FOR FURTHER INFORMATION CONTACT: Ms. Stacey Miller, NMFS Northwest Fisheries Science Center; telephone: (541) 867–0562.

SUPPLEMENTARY INFORMATION: To attend the NWFSC Pre-Assessment webinar, please reserve your seat by visiting: *https://nwfscfram.webex.com/nwfscfram/j.php?ED=19623343&UID=*

95756543&RT=MiM0. If requested, enter your name, email address, and the webinar id, which is 298 872 886. Once registered, participants will receive a confirmation email message that contains detailed information about viewing the event. To only join the audio teleconference of the NWFSC Pre-Assessment Workshop webinar from the U.S. or Canada, call the toll number 1–650–479–3208 (**Note:** this is not a toll-free number) and use the access code 298–872–886 when prompted. To request a toll-free audio connection, please contact Ms. Stacey Miller, (541) 867–0562, at least 5 days prior to the webinar meeting.

System requirements for attending the online webinar are as follows: PC-based attendees: Windows® 2000, XP SP#, 2003 Server, Vista 32-bit/64-bit, Windows® 7 32-bit/64-bit, 2008 Server 64-bit; Intel Core2 Duo CPU 2.XX GHz or AMD processor. (2 GB of RAM recommended), JavaScript and Cookies enabled, Active X enabled and unblocked for Microsoft Internet Explorer (recommended) and Java 6.0 or above, Microsoft® Internet Explorer 6, 7 or 8 (8 is recommended), Mozilla Firefox 3.x or 4.0b, Chrome 5, 6, or 7; Mac®-based attendees: Mac OS® X 10.5 or 10.6; Other platforms supported: Linux, Solaris Solaris 10, HP–UX 11.11 and AIX 5.3; and Mobile attendees: iPhone® or iPad® (iOS 3+), Android TM (v 2.1+) and Cius devices. If you experience technical difficulties connecting to the webinar meeting, it may be helpful to try using a different browser if possible.

Public listening stations for the NWFSC Pre-Assessment Workshop webinar will also be available at the following locations: (1) Auditorium, National Marine Fisheries Service, Northwest Fisheries Science Center, 2725 Montlake Blvd. East, Seattle, WA 98112, Telephone: (206) 860–3200; (2) Public Meeting Room, Englund Marine & Industrial Supply, Hamburg Avenue, Astoria, OR 97103, Telephone: (503) 325–4341; (3) Conference Room 101, National Marine Fisheries Service, Northwest Fisheries Science Center, 2032 SE OSU Drive, Newport, OR 97365, Telephone: (541) 867–0500; (4) Public Meeting Room, Port of Coos Bay, Charleston Marina RV Park, 63402 Kingfisher Road, Charleston, OR 97420, Telephone: (541) 888–9512; (5) Meeting Room, Fishermen's Marketing Association, 1585 Heartwood Drive, Suite E., McKinleyville, CA 95519, Telephone: (707) 840–0182; and (6) Large Conference Room, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384, Telephone: (503) 820–2280.

To attend the webinar at the Northwest Fisheries Science Center listening stations in Seattle, WA or Newport, OR, members of the general public who are not National Marine Fisheries Service employees need to provide photo identification. Foreign nationals, where a foreign national is an individual who is not a citizen of the United States, not a legal permanent resident (meaning not a ''permanent resident alien'' or ''Green Card'' holder), and not a ''protected individual'' under 8 U.S.C. 1324b(a)(3), intending to attend the webinar at either of the Northwest Fisheries Science Centers must notify Ms. Stacey Miller, (541) 867–0562, at the Northwest Fisheries Science Center at least 2 weeks prior to the webinar.

Public comments during the webinar will be received from attendees at one of the public listening stations as well as by participants who have pre-registered and are listening from remote locations.

The specific objectives of the NWFSC Pre-Assessment Workshop webinar are to: (1) Present and describe data that may be included in the stock assessment modeling for rougheye rockfish, aurora rockfish, longspine thornyhead and shortspine thornyhead; (2) discuss the interpretation of data given historical and current fishing practices and changes in fishing regulations; (3) discuss approaches for improving stock assessment modeling efforts; and (4) identify data gaps and future research possibilities. No management actions will be decided in this workshop.

All visitors to the National Marine Fisheries Service science centers should bring photo identification to the meeting location. Visitors who are foreign nationals (defined as a person who is not a citizen or national of the United States) will require additional security clearance to access the NOAA facilities. Foreign national visitors should contact Ms. Stacey Miller at (541) 867–0562 at least 2 weeks prior to the meeting date to initiate the security clearance process.

Although non-emergency issues not identified in the webinar agenda may come before the webinar participants for discussion, those issues may not be the subject of formal action during this webinar. Formal action at the workshop will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the webinar participants' intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to Ms. Stacey Miller at (541) 867–0562 at least 5 days prior to the webinar date.

Dated: May 2, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–10750 Filed 5–6–13; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0102]

Collection of Information; Proposed Extension of Approval; Comment Request—Follow-Up Activities for Product-Related Injuries

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed extension of approval of a collection of information from persons who have been involved in or have witnessed incidents associated with consumer products. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget (OMB).

DATES: The Office of the Secretary must receive comments not later than July 8, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2009–0102, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary,

Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number, CPSC–2009–0102, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Section 5(a) of the Consumer Product Safety Act, 15 U.S.C. 2054(a), requires the Commission to collect information related to the causes and prevention of death, injury, and illness associated with consumer products. That section also requires the Commission to conduct continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products.

The Commission obtains information about product-related deaths, injuries, and illnesses from a variety of sources, including newspapers, death certificates, consumer complaints, and medical facilities. In addition, the Commission receives information through its Internet Web site through forms reporting on product-related injuries or incidents.

The Commission also operates a surveillance system known as the National Electronic Injury Surveillance System (NEISS) that provides timely data on consumer product-related injuries treated as well as U.S. childhood poisonings. NEISS data comes from a statistically valid sample from approximately 100 hospital emergency departments. The NEISS system has been in operation since 1971. NEISS emergency department records are reviewed by hospital employees or contractors (NEISS coders).

From these sources, Commission staff selects cases of interest for further investigation by face-to-face or telephone interviews with persons who witnessed, or were injured in, incidents involving consumer products. On-site investigations are usually made in cases where Commission staff needs photographs of the incident site, the product involved, or detailed information about the incident. This information can come from face-to-face interviews with persons who were injured or who witnessed the incident, as well as contact with state and local officials, including police, coroners, and fire investigators, and others with knowledge of the incident.

The Commission uses the information to support the development and improvement of voluntary standards; rulemaking proceedings; information and education campaigns; compliance and enforcement efforts and related administrative and judicial proceedings. Commission activities are, in many cases, data driven, and incident data is crucial in advancing the agency's mission.

OMB approved the collection of information concerning product-related injuries under control number 3041–0029. OMB's most recent extension of approval will expire on July 31, 2013. The Commission now proposes to request an extension of approval of this collection of information.

B. NEISS Estimated Burden

The NEISS system collects information on consumer-product related injuries from about 100 hospitals in the U.S. Respondents to NEISS include hospitals that directly report information to NEISS, and hospitals that allow CPSC contractors to collect the data on behalf of the agency. In FY 2012, there were a maximum of 150 NEISS contracts (total hospitals and CPSC contractors). NEISS coders collect and review all emergency records daily or weekly. During that year, NEISS coders reviewed an estimated 4.6 million emergency department records and reported approximately 400,000 consumer-product related injuries, of which 5,100 were childhood poisoning-related injuries. Each record takes approximately 15 seconds to review. Coding and reporting records that involve consumer product related injuries takes approximately 2.5 minutes per record. NEISS coders also spend about 36 hours per year in related activities (training, evaluations, and communicating with doctors and nurses if more detailed information is needed).

The total burden hours for collecting, reviewing and coding incident records and reports during FY 2012 are estimated to be 41,300. The average burden hour per hospital for FY 2012 is approximately 430 hours; however, the total burden hour on each hospital varies due to differences in size of the hospital (*e.g.,* small rural hospitals versus large metropolitan hospitals). For example, the smallest hospital reported approximately 150 cases with a burden of about 50 hours, while the largest hospital reported more than 17,500 cases with a burden of almost 1,400 hours.

The total contract costs for NEISS in FY 2012 are $1.7 million. Based on FY 2012 data, the average cost per respondent is estimated to be about $17,600. The average cost per burden hour is estimated to be $41 per hour (including wages and overhead); however, the actual cost to each respondent varies due to the type of respondent (hospital versus CPSC contractor), size of hospital, and regional differences in wages and overhead. Thus, the actual annual cost for any given respondent may vary between $1,000 at a small rural hospital and $78,000 at a large metropolitan hospital.

C. Other Burden Hours

In cases that require more information regarding product-related incidents or injuries, the staff conducted face-to-face interviews of approximately 550 persons during FY 2012. Such interviews may take place with the injured party, or a witness to the incident. On average, each on-site interview took about 4.5 hours. In FY 2012 Commission staff also conducted about 3700 in-depth investigations by telephone from the injured party or, in the case of a minor, the parents or guardian. Each such in-depth telephone investigation required approximately 20 minutes. Based on the FY 2012 data, staff estimates that this collection of information imposes a total annual hourly burden of 3,708 hours on all respondents: 2,475 hours for face-to-face interviews and 1,233 hours for in-depth telephone interviews. Commission staff estimates the value of the time required for reporting is $27.12 an hour (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' December 2012, Table 9, Total compensation for all sales and office workers in goods-producing industries: *http://www.bls.gov/ncs*). At this valuation, the estimated annual cost of

the burden hours to the public is about $100,570.

This request for the approval of an estimated 45,008 (41,300 NEISS and 3,708 other) burden hours per year is a decrease of 4,697 hours since this collection of information was last approved by OMB in 2009. This decrease is due, in part, to the increased proportion of investigations being conducted by phone rather than on-site. In addition, to avoid duplication, this information collection request excludes the burden now associated with other publicly available Consumer Product Safety Information Databases, such as Internet complaints, Hotline, and the Medical Examiner and Coroners Alert Project reports. These information collections have been approved by OMB and are now collected under OMB Control No. 3041–0146.

The annual cost to the government of the information collection is estimated to be $3.3 million a year. This estimate includes approximately $1.7 million in contract costs to NEISS respondents (based on FY 2012 data). This estimate also includes $1.6 million for approximately 160 Commission staff months each year. The estimate of staff months includes the time required to oversee NEISS operations (*e.g.,* administration, training, quality control); conduct face-to-face and telephone interviews; and evaluate responses. Each month of professional staff time costs the Commission about $10,175. This is based on a GS–12 mid-level salaried employee. The average yearly wage rate for a mid-level salaried GS–12 employee in the Washington, DC metropolitan area (effective as of January 2011) is $84,855 (GS–12, step 5). This represents 69.5 percent of total compensation (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' December 2012, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees: *http://www.bls.gov/ncs/*). Adding an additional 30.5 percent for benefits brings average yearly compensation for a mid-level salaried GS–12 employee to $122,094.

D. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: May 2, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–10777 Filed 5–6–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0094]

Proposed Collection; Comment Request

AGENCY: Office of the General Counsel, Standards of Conduct Office, OSD, Defense.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the General Counsel, Standards of Conduct Office, announces a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 6, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the General Counsel, ATTN: Standards of Conduct Office (Mr. Rishel), 1600 Defense Pentagon, Suite 3E783, Washington, DC 20301–1600.

Title and OMB Control Number: Post Government Employment Advice Opinion Request; OMB Control Number 0704–0467.

Needs and Uses: The information collection requirement is necessary to obtain minimal information on which to base an opinion about post Government employment of select former and departing DoD employees seeking to work for Defense Contractors within two years after leaving DoD. The departing or former DoD employee uses the form to organize and provide employment-related information to an ethics official who will use the information to render an advisory opinion to the employee requesting the opinion. *The National Defense Authorization Act of 2008,* Public Law 110–181, section 847, requires that select DoD officials and former DoD officials who, within two years after leaving DoD, expect to receive compensation from a DoD contractor, shall, before accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

Affected Public: Departing and former DoD employees.

Annual Burden Hours: 250.

Number of Respondents: 250.

Responses per Respondent: 1.

Average Burden per Response: 60 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The National Defense Authorization Act of 2008, Public Law 110–181, section 847, requires that select DoD

officials and former DoD officials who, within two years after leaving DoD, expects to receive compensation from a DoD contractor, shall, before accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

The departing or former DoD employee uses the form to organize and provide employment-related information to an ethics official who will use the information to provide an opinion to the employee on the applicability of post-Government employment restrictions. The information requested is employment-related and identifying information about the person requesting the opinion.

Dated: November 20, 2012.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–10760 Filed 5–6–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID. DoD–2013–OS–0099]

Proposed Collection; Comment Request

AGENCY: The Defense Language and National Security Education Office, Office of the Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Defense Language and National Security Education Office announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 8, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write CNA, ATTN: Jessica Wolfanger, 4825 Mark Center Drive, Alexandria, VA 22311, or call at (703) 824–2842.

Title; Associated Form; and OMB Number: Boren Scholarship and Fellowship Survey; OMB Control Number 0704–TBD.

Needs and Uses: Boren scholarships and fellowships provide funding for students to study abroad to improve their cultural and language skills in areas critical to national security. In exchange for financial assistance, students are required to work for the federal government for at least one year after completing the program.

The information collection requirement is necessary to identify where former Boren scholarship and fellowship awardees work now and how their careers have developed since completing the program.

Affected Public: Individuals and Households.

Annual Burden Hours: 450.

Number of Respondents: 1,800.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: Once.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Defense Language and National Security Education Office (DLNSEO) within the Office of the Secretary of Defense for Personnel and Readiness provides Boren scholarships and fellowships for students to study abroad to improve their cultural and language skills in areas critical to national security. In exchange for financial assistance, students are required to work for the federal government for at least one year after completing the program. The purpose of this survey is to evaluate the Boren program by identifying where alumni work now and how their careers have developed since completing the program. The study seeks to understand how the Boren program may influence a participant's career path and identify ways to improve the Boren program. Respondents to the survey are former Boren fellows and scholars who have completed their service requirement.

Dated: May 2, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–10801 Filed 5–6–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2013–OS–0017]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by June 6, 2013.

Title, Associated Forms and OMB Number: Vietnam War Commemoration After-Action Report; DD Form 2957; OMB Number 0704–TBD.

Type of Request: New.

Number of Respondents: 5,000.

Responses per Respondent: 1.

Annual Responses: 5,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 1,250 hours.

Needs and Uses: The information collection requirement is necessary to notify the United States of America Vietnam War Commemoration's Commemorative Partner Program of Commemorative Partner's results of their event.

Affected Public: Business of other for-profit; Not-for-profit institutions; Federal Government; State, local or tribal government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: April 30, 2013.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–10763 Filed 5–6–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2012–OS–0065]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by June 6, 2013.

Title, Associated Forms and OMB Number: Confirmation of Request for Reasonable Accommodation; SD Form 827; OMB Control Number 0704–TBD.

Type of Request: New.

Number of Respondents: 20.

Responses per Respondent: 1.

Annual Responses: 20.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 5 hours.

Needs and Uses: The information collection requirement is necessary to obtain and record requests for reasonable accommodation, with the intent to measure and ensure Agency compliance with Rehabilitation Act of 1973, Public Law 93–112; Rehabilitation Act Amendments of 1992, Public Law 102–569; Americans with Disabilities Act of 1990, Public Law 101–336; Americans with Disabilities Act Amendments Act of 2008, Public Law 110–325.

Affected Public: Individuals or households; Federal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: April 30, 2013.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–10764 Filed 5–6–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2013–OS–0018]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by June 6, 2013.

Title, Associated Forms and OMB Number: Vietnam War Commemoration Planned Commemorative Events; DD Form 2956; OMB Number 0704–TBD.

Type of Request: New.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 2,500 hours.

Needs and Uses: The information collection is necessary to notify the United States of America Vietnam War Commemoration's Commemorative Partner Program of Commemorative Partner's planned events for inclusion on the Commemoration's events calendar, and to request event support from the program.

Affected Public: Business of other for-profit; Not-for-profit institutions; Federal Government; State, local or tribal government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: April 30, 2013.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–10762 Filed 5–6–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2013–OS–0094]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 6, 2013.

Title, Associated Forms and OMB Number: Post Government Employment Advice Opinion Request; OMB Control Number 0704–0467.

Type of Request: Revision.

Number of Respondents: 233.

Responses per Respondent: 1.

Annual Responses: 233.

Average Burden per Response: 1 hour.

Annual Burden Hours: 233 hours.

Needs and Uses: The information collection requirement is necessary to obtain minimal information on which to base an opinion about post Government employment of select former and departing DoD employees seeking to work for Defense Contractors within two years after leaving DoD. The departing or former DoD employee uses the form to organize and provide employment-related information to an ethics official who will use the information to render an advisory opinion to the employee requesting the opinion. *The National Defense Authorization Act of 2008,* Public Law 110–181, section 847, requires that select DoD officials and former DoD officials who, within two years after leaving DoD, expect to receive compensation from a DoD contractor, shall, before accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

Affected Public: Individuals or households; Federal government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: April 30, 2013.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–10761 Filed 5–6–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2013–0009]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to add a new System of Records.

SUMMARY: The Department of the Army proposes to add a new system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on June 7, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before June 6, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by calling (703) 428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at *http://dpclo.defense.gov/privacy/SORNs/component/army/index.html.* The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 25, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 2, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0600–8b AHRC

SYSTEM NAME:

Soldiers' Criminal History Files

SYSTEM LOCATION:

At each Brigade-level or higher Command. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, National Guard and Reserve commissioned officers, warrant officers and enlisted personnel assigned or projected for assignment to Army units.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of Soldiers with criminal convictions and investigations included in the report information from witnesses, victims that resulted in founded offenses over the preceding 5-year period and related documentation. Information in the reports includes: Soldier's name, Social Security Number (SSN), rank, aliases, date, location, and description of the offense; case number of the reported offense, Department of the Army Form 4833, Commander's Report of Disciplinary or Administrative Action, Department of the Army Form 3975, Military Police Reports-MPRs, and adjudication of the founded offense as guilty, not guilty or unknown. If a Soldier has no criminal history within the preceding 5-year period, the report will show a negative entry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; AR 27–10, Military Justice; AR 380–67, Personnel Security Program; AR 600–8, Military Personnel Management; Army Regulation 600–20, Army Command Policy; Army Directive 2013–06, Providing Specific Law Enforcement Information to Commanders of Newly Assigned Soldiers; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

This system will give Brigade-level or higher commanders an additional tool to help them promote the health, resilience, well-being and readiness of their Soldiers by ensuring command awareness of Soldiers who have engaged in potentially high-risk criminal behaviors. Provides commanders the information they need to take appropriate intervention measures such as referral for counseling, treatment and assistance, as required to mitigate potential risks. Brigade-level or higher Commander may further disclose information from the files only to those with an official need to know.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

By name, SSN and rank.

SAFEGUARDS:

Records are protected by physical security devices, computer hardware and software safeguard features, and restrictions on system access to only those personnel with an official need to know.

Soldiers' Criminal History Files will be sent via authorized government electronic mail with Public Key Infrastructure (PKI) encryption only to the Brigade-level or higher Commander who may further disclose information from the files to those with an official need to know. Personnel with an official need to know include individuals with responsibility for risk assessment and management, such as the chain of command, brigade judge advocate, paralegal noncommissioned officer, and administrative personnel.

Paper records are stored in secure container/file cabinets with access restricted to Brigade-level or higher commanders and personnel with an official need to know.

RETENTION AND DISPOSAL:

Soldier's Criminal history reports sent to commanders are deleted or destroyed by shredding after the Soldier departs the unit.

SYSTEM MANAGERS AND ADDRESS:

U.S. Army Human Resources Command, Deputy G–3 Operations (HRC–PL), 1600 Spearhead Division Avenue (1–3–021), Ft Knox, KY 40122–5102.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Brigade-level or higher Commander of the unit to which the Soldier is assigned or the designated representative of the Commander. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

The request should provide their full name, SSN, current address, and sufficient details to permit locating pertinent records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Brigade-level or higher Commander of the unit to which the Soldier is assigned or the designated representative of the Commander. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

The request should provide their full name, SSN, current address, and sufficient details to permit locating pertinent records.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Subjects of criminal investigations, witnesses, victims, Military Police and U.S. Army Criminal Investigation Command personnel and special agents, informants, various Department of Defense, federal, state and local investigative and law enforcement agencies, departments or agencies of foreign governments, and any other individuals or organizations that may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–10769 Filed 5–6–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Secretary of the Navy Advisory Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting via audio conferencing.

SUMMARY: The Secretary of the Navy (SECNAV) Advisory Panel will discuss

recommendations from the Naval Research Advisory Committee on ''How Autonomy can Transform Naval Operations'' and ''Lightening the Information Load''.

DATES: The Audio Conference will be held on May 13, 2013 from 10:00 a.m. to 12:30 p.m.

ADDRESSES: 1000 Navy Pentagon, Washington, DC 20350–1000. Pentagon Conference Room 4B746.

This will be an audio conference. The SECNAV Advisory Panel Staff will have access to one line open to the public, in the conference room 4B746.

Public access is limited due to the Pentagon Security requirements. Any individual wishing to attend or dial into the audio conference should contact LCDR John Halttunen at 703–695–3042 or Captain Peter Brennan at 703–695–3032 no later than May 8, 2013. Members of the public who do not have Pentagon access will be required to also provide Name, Date of Birth and Social Security number by May 8, 2013 in order to obtain a visitor badge. Public transportation is recommended as public parking is not available. Members of the public wishing to attend this event must enter through the Pentagon's Metro Entrance between 9:00 a.m. and 9:30 a.m. where they will need two forms of identification in order to receive a visitors badge and meet their escort. Members will then be escorted to Room 4B746 to attend the open sessions of the Advisory Panel. Members of the Public shall remain with designated escorts at all times while on the Pentagon Reservation. Members of the public will be escorted back to the Pentagon Metro Entrance upon completion of the meeting.

FOR FURTHER INFORMATION CONTACT: Captain Peter Brennan, SECNAV Advisory Panel, 1000 Navy Pentagon, Washington, DC 20350–1000, 703–695–3032.

SUPPLEMENTARY INFORMATION: Individuals or interested groups may submit written statements for consideration by the SECNAV Advisory Panel at any time or in response to the agenda of a scheduled meeting. All requests must be submitted to the Designated Federal Officer at the address detailed below.

If the written statement is in response to the agenda mentioned in this meeting notice then the statement, if it is to be considered by the Panel for this meeting, must be received at least five days prior to the meeting in question.

The Designated Federal Officer will review all timely submissions with the SECNAV Advisory Panel Chairperson, and ensure they are provided to members of the SECNAV Advisory Panel before the meeting that is the subject of this notice.

To contact the Designated Federal Officer, write to: Designated Federal Officer, SECNAV Advisory Panel, 1000 Navy Pentagon, Washington, DC 20350, 703–695–3032.

Dated: May 1, 2013.

D.G. Zimmerman,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–10779 Filed 5–6–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0064]

Agency Information Collection Activities; Comment Request; Guaranty Agency Financial Report

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 8, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0064 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103 Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Guaranty Agency Financial Report.

OMB Control Number: 1845–0026.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 744.

Total Estimated Number of Annual Burden Hours: 40,920.

Abstract: The Guaranty Agency Financial Report (GAFR), Education Form 2000, is used by the thirty-one (31) guaranty agencies under the Federal Family Education Loan (FFEL) program, authorized by Title IV, Part B of the HEA of 1965, as amended. Guaranty agencies use the GAFR to: (1) Request reinsurance from Education; (2) request payment on death, disability, closed school, and false certification claim payments to lenders; (3) remit to Education refunds on rehabilitated loans and consolidation loans; (4) remit to Education default and wage garnishment collections. Education also uses report data to monitor the guaranty agency's financial activities (agency federal fund and agency operating fund) and each agency's federal receivable balance.

Dated: May 1, 2013.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–10706 Filed 5–6–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects—Inclusive Cloud and Web Computing

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information: National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects (DRRPs)—Inclusive Cloud and Web Computing Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133A–1.

DATES: *Applications Available:* May 7, 2013.

Date of Pre-Application Meeting: May 28, 2013.

Deadline for Transmittal of Applications: July 8, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Disability and Rehabilitation Research Projects

The purpose of NIDRR's DRRPs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act, by developing methods, procedures, and rehabilitation technologies that advance a wide range of independent living and employment outcomes for individuals with disabilities, especially individuals with the most severe disabilities. DRRPs carry out one or more of the following types of activities, as specified and defined in 34 CFR 350.13 through 350.19: research, training, demonstration, development, dissemination, utilization, and technical assistance.

An applicant for assistance under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds (34 CFR 350.40(a)). The approaches an applicant may take to meet this requirement are found in 34 CFR 350.40(b). Additional information on DRRPs can be found at: *http://www2.ed.gov/rschstat/research/pubs/res-program.html#DRRP.*

Priorities: Priority 1—*DRRP on Inclusive Cloud and Web Computing*—is from the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**. Priority 2—*General Disability and Rehabilitation Research Projects (DRRP) Requirements*—is from the notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program, published in the **Federal Register** on April 28, 2006 (71 FR 25472).

Absolute Priorities: For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet these priorities.

These priorities are:

Priority 1—DRRP on Inclusive Cloud and Web Computing.

Note: The full text of this priority is included in the notice of final priority published in this issue of the **Federal Register** and in the application package for this competition.

Priority 2—General Disability and Rehabilitation Research Projects (DRRP) Requirements.

Note: The full text of this priority is included in the notice of final priority published in the **Federal Register** on April 28, 2006 (71 FR 25472) and in the application package for this competition.

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350. (d) The notice of final priorities published in the **Federal Register** on April 28, 2006 (71 FR 25472). (e) The notice of final priority published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $750,000.

Maximum Award: We will reject any application that proposes a budget exceeding $750,000 for a single budget period of 12 months. The Assistant Secretary for the Office of Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 350.62(a) and will be negotiated at the time of the grant award.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program as follows: CFDA number 84.133A–1.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in

the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 100 pages, using the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299) (Plan) when preparing its application. The Plan can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

3. *Submission Dates and Times:*

Applications Available: May 7, 2013.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDRR staff. The pre-application meeting will be held on May 28, 2013. Interested parties may participate in this meeting by conference call with NIDRR staff from the Office of Special Education and Rehabilitative Services between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or for an individual consultation, contact Marlene Spencer as follows:

Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Potomac Center Plaza (PCP), Room 5133, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov*.

Deadline for Transmittal of Applications: July 8, 2013.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, Central Contractor Registry, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR)—and, after July 24, 2012, with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR or SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp*.

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the DRRP program, CFDA Number 84.133A–1, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under

Exception to Electronic Submission Requirement.

You may access the electronic grant application for this program at *www.Grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system homepage at *www.G5.gov*.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (a Department-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, PCP, Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you

may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.133A–1), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.133A–1), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through a review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

- The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDRR funding) that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.
- The percentage of new NIDRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports (APRs) for these reviews.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *www.ed.gov/about/offices/list/opepd/sas/index.html.*

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made

''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a TDD or a TTY call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY call the FRS, toll-free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature of this site, you can limit your search to documents published by the Department.

Dated: May 1, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–10824 Filed 5–6–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; NIDDR DRRP—Community Living and Participation, Health and Function, and Employment of Individuals With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information

National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Disability and Rehabilitation Research Projects (DRRPs)—Community Living and Participation, Health and Function, and Employment of Individuals With Disabilities.

Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Numbers: Community Living and Participation of Individuals With Disabilities: 84.133A–3 (Research) and 84.133A–9 (Development); Health and Function of Individuals With Disabilities: 84.133A–4 (Research) and 84.133A–10 (Development); and Employment of Individuals With Disabilities: 84.133A–5 (Research) and 84.133A–11 (Development).

DATES:

Applications Available: May 7, 2013.

Date of Pre-Application Meeting: May 28, 2013.

Deadline for Notice of Intent To Apply: June 11, 2013.

Deadline for Transmittal of Applications: July 8, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities; to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Disability and Rehabilitation Research Projects (DRRPs)

The purpose of DRRPs, which are under NIDRR's Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended, by developing methods, procedures, and rehabilitation technologies that advance a wide range of independent living and employment outcomes for individuals with disabilities, especially individuals with the most severe disabilities. DRRPs carry out one or more of the following types of activities, as specified and defined in 34 CFR 350.13 through 350.19: research, training, demonstration, development, dissemination, utilization, and technical assistance. Additionally information on DRRPs can be found at: *http://www2.ed.gov/rschstat/research/pubs/res-program.html#DRRP.*

Priorities: There are four priorities for these competitions. Three priorities are from the notice of final priorities and definitions for this program, published elsewhere in this issue of the **Federal Register**. One priority is from the notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program, published in the **Federal Register** on April 28, 2006 (71 FR 25472).

Absolute Priorities: For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from these competitions, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet these priorities.

These priorities are:

Priority 1—DRRP on Community Living and Participation of Individuals With Disabilities.

Priority 2—Health and Function of Individuals With Disabilities.

Priority 3—Employment of Individuals With Disabilities.

Note: The full text of these priorities is included in the notice of final priorities and definitions published elsewhere in this issue of the **Federal Register** and in the application package for this competition.

Priority 4—General DRRP Requirements.

Note: The full text of this priority is included in the notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program, published in the **Federal Register** on April 28, 2006 (71 FR 25472) and in the application package for this competition.

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350. (d) The notice of final priorities for the Disability and Rehabilitation Research Projects and Centers program published in the **Federal Register** on April 28, 2006 (71 FR 25472). (e) The notice of final priorities and definitions for this program, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: See chart.

Estimated Range of Awards: See chart.

Estimated Average Size of Awards: See chart.

Maximum Award: See chart.

Estimated Number of Awards: See chart.

Note: The Department is not bound by any estimates in this chart.

Project Period: See chart.

CFDA No. and name	Applications available	Deadline for transmittal of applications	Estimated available funds	Estimated average size of awards	Estimated range of awards	Estimated number of awards	Maximum award amount (per year) [1 2 3]	Project period (months)
84.133A–3 (Research) and 84.133A–9 (Development), Community Living and Participation of Individuals With Disabilities.	May 7, 2013	July 8, 2013	$950,000	$472,500	$470,000–$475,000	2	$475,000	60
84.133A–4 (Research) and 84.133A–10 (Development), Health and Function of Individuals With Disabilities.	May 7, 2013	July 8, 2013	950,000	472,500	$470,000–$475,000	2	475,000	60
84.133A–5 (Research) and 84.133A–11 (Development), Employment of Individuals With Disabilities.	May 7, 2013	July 8, 2013	950,000	472,500	$470,000–$475,000	2	475,000	60

[1] Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2013 and any subsequent year from the list of unfunded applications from this competition.

[2] We will reject any application that proposes a budget exceeding the Maximum Amount. The Assistant Secretary for special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register.**

[3] The maximum amount includes both direct and indirect costs.

III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 350.62(a) and will be negotiated at the time of the grant award.

3. *Other:* Different selection criteria are used for DRRP research grants and development grants. Applicants under each priority must clearly indicate in the application whether they are applying for a research grant (84.133A–3, 84.133A–4, or 84.133A–5) or a development grant (84.133A–9, 84.133A–10, and 84.133A–11) and must address the selection criteria relevant to that grant type. Without exception, NIDRR will review each application based on the grant designation made by the applicant. Applications will be determined ineligible and will not be reviewed if they do not include a clear designation as a research grant or a development grant.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html*. To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this program as follows: CFDA number 84.133A–3 & 84.133A–9; 84.133A–4 & 84.133A–10; or 84.133A–5 & 84.133A–11.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Notice of Intent to Apply: Due to the open nature of the DRRP priorities announced here, and to assist with the selection of reviewers for this competition, NIDRR is requesting all potential applicants to submit a letter of intent (LOI). The submission is not mandatory and the content of the LOI will not be peer reviewed or otherwise used to rate an applicant's application.

Each LOI should be limited to a maximum of four pages and include the following information: (1) The title of the proposed project, the name of the applicant, the name of the Project Director or Principal Investigator (PI), and the names of partner institutions and entities; (2) a brief statement of the vision, goals, and objectives of the proposed project and a description of its activities at a sufficient level of detail to allow NIDRR to select potential peer reviewers; (3) a list of proposed project staff including the Project Director or PI and key personnel; (4) a list of individuals whose selection as a peer reviewer might constitute a conflict of interest due to involvement in proposal development, selection as an advisory board member, co-PI relationships, etc.; and (5) contact information for the Project Director or PI. Submission of a LOI is not a prerequisite for eligibility to submit an application.

NIDRR will accept the optional LOI via surface mail or email, by June 11, 2013. The LOI must be sent to: Marlene Spencer, U.S. Department of Education, 550 12th Street SW., room 5133, Potomac Center Plaza, Washington, DC 20202; or by email to: *Marlene.Spencer@ed.gov*.

For further information regarding the LOI submission process, contact Marlene Spencer at (202) 245–7532.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 75 pages, using the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

An applicant should consult NIDRR's Plan when preparing its application (add Cite). The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. *Submission Dates and Times:*

Applications Available: May 7, 2013.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDRR staff. The pre-application meeting will be held on May 28, 2013. Interested parties may participate in this meeting by conference call with NIDRR staff from the Office of Special Education and Rehabilitative Services between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or to arrange for an individual consultation, contact Marlene Spencer as follows:

Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Potomac Center Plaza (PCP), room 5133, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov*.

Deadline for Notice of Intent to Apply: June 11, 2013.

Deadline for Transmittal of Applications: July 8, 2013.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, Central Contractor Registry, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR)—and, after July 24, 2012, with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR or SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp*.

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.* Applications for grants under the Community Living and Participation, Health and Function, and Employment of Individuals With Disabilities DRRP program, CFDA Number 84.133A–3 (Research) and 84.133–9 (Development); 84.133A–4 (Research) and 84.133A–10 (Development); 84.133A–5 (Research) and 84.133A–11 (Development), must be submitted electronically using the Governmentwide Grants.gov Apply site at www.Grants.gov. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an

electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Community Living and Participation, Health and Function, and Employment of Individuals With Disabilities DRRP program at www.Grants.gov. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov*.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked

no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, Potomac Center Plaza, Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133A–3 (Research) or 84.133A–9 (Development); 84.133A–4 (Research) or 84.133A–10 (Development); 84.133A–5 (Research) or 84.133A–11 (Development)), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133A–3 (Research) or 84.133A–9 (Development); 84.133A–4 (Research) or 84.133A–10 (Development); 84.133A–5 (Research) or 84.133A–11 (Development)), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through a review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

• The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDRR funding) that have been judged by expert panels to be of high quality and to advance the field.

• The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.

• The percentage of new NIDRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports for these reviews.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *www.ed.gov/about/offices/list/opepd/sas/index.html.*

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *Marlene.Spencer@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature of this site, you can limit your search to documents published by the Department.

Dated: May 2, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and duties of Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–10830 Filed 5–6–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting: Correction.

SUMMARY: On April 29, 2013, the Department of Energy (DOE) published a notice of open meeting announcing a meeting on May 16, 2013 of the Environmental Management Site-Specific Advisory Board, Paducah (78 FR 25064). This document makes a correction to that notice.

FOR FURTHER INFORMATION CONTACT: Rachel Blumenfeld, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

Correction

In the **Federal Register** of April 29, 2013, in FR Doc. 2013–10035, on page 25064, please make the following correction:

In that notice under **DATES**, second column, second paragraph, the meeting time has been changed. The new time is 5:30 p.m. instead of 6:00 p.m.

Issued at Washington, DC, on May 2, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–10795 Filed 5–6–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–819–000.
Applicants: ANR Pipeline Company.
Description: Maps Update to be effective 6/1/2013.
Filed Date: 4/26/13.
Accession Number: 20130426–5098.
Comments Due: 5 p.m. ET 5/8/13.

Docket Numbers: RP13–820–000.
Applicants: TC Offshore LLC.
Description: Map Update to be effective 6/1/2013.
Filed Date: 4/26/13.
Accession Number: 20130426–5099.
Comments Due: 5 p.m. ET 5/8/13.

Docket Numbers: RP13–821–000.
Applicants: Alliance Pipeline L.P.
Description: May 1—31 2013 Auction to be effective 5/1/2013.
Filed Date: 4/26/13.
Accession Number: 20130426–5174.
Comments Due: 5 p.m. ET 5/8/13.

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 29, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–10733 Filed 5–6–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–822–000.
Applicants: Elba Express Company, L.L.C.
Description: Annual Fuel Tracker Filing of Elba Express Company, L.L.C.
Filed Date: 4/29/13.
Accession Number: 20130429–5050.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–823–000.
Applicants: CenterPoint Energy—Mississippi River T.
Description: Negotiated Rate Filing Effective May 1, 2013 to be effective 5/1/2013.
Filed Date: 4/29/13.
Accession Number: 20130429–5099.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–824–000.
Applicants: ANR Pipeline Company.
Description: ANR Pipeline Company Operational Purchases and Sales Report for 12 Months Ending December 31, 2012.
Filed Date: 4/29/13.
Accession Number: 20130429–5107.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–825–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Amendments to Neg Rate Agmts (Vanguard 597–7 and 598–8) to be effective 5/1/2013.
Filed Date: 4/29/13.
Accession Number: 20130429–5111.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–826–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Amendment to Neg Rate Agmt—JP Morgan 156–5 to be effective 5/1/2013.
Filed Date: 4/29/13.
Accession Number: 20130429–5112.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–827–000.
Applicants: Petal Gas Storage, L.L.C.
Description: Non-conforming Service Agmt—PSEG to be effective 5/1/2013.
Filed Date: 4/29/13.
Accession Number: 20130429–5116.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–828–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Amendment to Neg Rate Agmt—QEP 37657–29 to be effective 5/1/2013.
Filed Date: 4/29/13.
Accession Number: 20130429–5122.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–829–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Cap Rel Neg Rate Agmt—Willmut 35221 to BP Energy 40900 to be effective 5/1/2013.
Filed Date: 4/29/13.
Accession Number: 20130429–5131.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–830–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Cap Rel Neg Rate Agmt (QEP 37657 to Texla 40899) to be effective 5/1/2013.
Filed Date: 4/29/13.
Accession Number: 20130429–5135.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–831–000.
Applicants: ANR Storage Company.
Description: ANR Storage Company Operational Purchases and Sales of Gas Report for 12 Months Ending December 31, 2013.
Filed Date: 4/29/13.
Accession Number: 20130429–5181.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–832–000.
Applicants: Bison Pipeline LLC.
Description: Bison Pipeline LLC Operational Purchases and Sales Report for 12 Months Ending December 31, 2012.
Filed Date: 4/29/13.
Accession Number: 20130429–5185.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–833–000.
Applicants: Great Lakes Gas Transmission Limited Par.
Description: Great Lakes Gas Transmission Limited Partnership Operational Purchases and Sales of Gas Report for 12 Months Ending December 31, 2012.
Filed Date: 4/29/13.
Accession Number: 20130429–5189.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–834–000.
Applicants: Northern Border Pipeline Company.
Description: Northern Border Pipeline Company Operational Purchases and Sales of Gas Report for 12 Months Ending December 31, 2012.
Filed Date: 4/29/13.
Accession Number: 20130429–5191.
Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–835–000.
Applicants: Blue Lake Gas Storage Company.
Description: Blue Lake Gas Storage Company Operational Purchases and Sales of Gas Report for 12 Months Ending December 31, 2012.
Filed Date: 4/29/13.
Accession Number: 20130429–5309.
Comments Due: 5 p.m. ET 5/13/13.

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 30, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary

[FR Doc. 2013–10732 Filed 5–6–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9809–9]

Notification of a Public Meeting of the Great Lakes Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) announces a public meeting and teleconference of the Great Lakes Advisory Board (GLAB). The meeting will be held on May 21 and 22, 2013 in Chicago, Illinois.

DATES: The public meeting will be held on Tuesday, May 21, 2013 from 1:00 p.m. to 5:00 p.m. and Wednesday, May22, 2013 from 9:00 a.m. to 12:00 p.m. (Central Daylight Time). The teleconference numbers is: (877) 226–9607; Participant code: 4218582837.

ADDRESSES: The meeting will be held at the EPA Region 5 Offices, Lake Michigan Room, in the Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this meeting may contact Rita Cestaric, Designated Federal Officer (DFO), GLAB, by telephone at (312) 886–6815 or email at

cestaric.rita@epa.gov. General information on the Great Lakes Restoration Initiative (GLRI) and the GLAB can be found on the GLRI Web site at *http://www.glri.us.*

SUPPLEMENTARY INFORMATION:

Background: The GLAB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. EPA established the GLAB in 2013 to provide independent advice to the EPA Administrator in his or her capacity as Chair of the federal Great Lakes Interagency Task Force. The GLAB conducts business in accordance with FACA and related regulations.

The GLAB consists of 18 members appointed by EPA's Administrator. Members serve as representatives of state, local and tribal government, environmental groups, agriculture, business, transportation, foundations, educational institutions and as technical experts.

The purpose of the May 21–22 meeting is for individual members of the GLAB to provide recommendations on refinements to the existing interagency *Great Lakes Restoration Initiative (GLRI) Action Plan (FY 2010—FY 2014)* to inform the development of a draft FY 2015–2019 Action Plan.

The May 21–22 meeting will provide opportunity for members of the public to submit oral comments in response to the charge questions for consideration by the GLAB.

Also, periodic opportunities for the public to provide input for the GLAB to consider will be provided after the May 21–22 public meeting and teleconference.

Availability of Meeting Materials: The agenda and other materials in support of the meeting will be available on the GLRI Web site at *http://www.glri.us* in advance of the meeting/teleconference.

Procedures for Providing Public Input: Federal advisory committees provide independent advice to federal agencies. Members of the public can submit relevant comments for consideration by the GLAB. Input from the public to the GLAB will have the most impact if it provides specific information for the GLAB to consider. Members of the public wishing to provide comments should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at this public meeting will be limited to three minutes per speaker, subject to the number of people wanting to comment. Interested parties should contact Rita Cestaric, DFO, in writing (preferably via email) at the contact information noted above by May 14, 2013 to be placed on the list of public speakers for the meeting.

Written Statements: Written statements must be received by May 14, 2013 so that the information may be made available to the GLAB for consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature and one electronic copy via email. Commenters are requested to provide two versions of each document submitted: one each with and without signatures because only documents without signatures may be published on the GLRI Web page.

Accessibility: For information on access or services for individuals with disabilities, please contact Rita Cestaric at the phone number or email address noted above, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: April 30, 2013.

Susan Hedman,

Great Lakes National Program Manager.

[FR Doc. 2013–10822 Filed 5–6–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Systemic Resolution Advisory Committee; Notice of Charter Renewal

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of renewal of the FDIC Systemic Resolution Advisory Committee.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (''FACA''), 5 U.S.C. App., and after consultation with the General Services Administration, the Chairman of the Federal Deposit Insurance Corporation has determined that renewal of the FDIC Systemic Resolution Advisory Committee (''the Committee'') is in the public interest in connection with the performance of duties imposed upon the FDIC by law. The Committee has been a successful undertaking by the FDIC and has provided valuable feedback to the agency on a broad range of issues regarding the resolution of systemically important financial companies pursuant to Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (July 21, 2010), 12 U.S.C. 5301 *et seq.* The Committee will continue to provide advice and recommendations on how the FDIC's systemic resolution authority, and its implementation, may impact regulated entities and other stakeholders potentially affected by the process. The structure and responsibilities of the Committee are unchanged from when it was originally established in May 2011. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

Dated: May 2, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Committee Management Officer.

[FR Doc. 2013–10808 Filed 5–6–13; 8:45 am]

BILLING CODE 6714–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–FTR 2013–02; Docket 2013–0002; Sequence 14]

Federal Travel Regulation (FTR); Relocation Allowance—Relocation Income Tax (RIT) Allowable Tables

AGENCY: Office of Governmentwide Policy (OGP), General Services Administration (GSA).

ACTION: Notice of bulletin 13–05.

SUMMARY: The GSA published FTR Amendment 2008–04, in the **Federal Register** on June 25, 2008 (73 FR 35952), specifying that GSA would no longer publish the RIT Allowance tables in Title 41 of the Code of Federal Regulation (CFR) part 302–17, Appendices A through D; instead, the tables would be available on a GSA Web site. The purpose of this notice is to inform agencies that FTR Bulletin 13–05 is now available and provides the annual changes to the RIT allowance tables necessary for calculating the amount of a transferee's increased tax burden due to his or her official permanent change of station. FTR Bulletin 13–05 and all other FTR Bulletins can be found at *www.gsa.gov/ftrbulletin.*

DATES: *Effective date:* This notice is effective April 17, 2013.

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Ed Davis, Office of Asset and Transportation Management (MA), Office of Government-wide Policy, GSA, at (202) 208–7638 or via email at *ed.davis@gsa.gov.* Please cite FTR Bulletin 13–05.

Dated: April 13, 2013.

Carolyn Austin-Diggs,

Principal Deputy Administrator, Office of Asset and Transportation Management, Office of Governmentwide Policy.

[FR Doc. 2013–10807 Filed 5–6–13; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

National Advisory Council for Healthcare Research and Quality: Request for Nominations for Public Members

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of request for nominations for public members.

SUMMARY: 42 U.S.C. 299c establishes a National Advisory Council for Healthcare Research and Quality (the Council). The Council is to advise the Secretary of HHS (Secretary) and the Director of the Agency for Healthcare Research and Quality (AHRQ) on matters related to activities of the Agency to improve the quality, safety, efficiency, and effectiveness of health care for all Americans.

Seven current members' terms will expire in November 2013. To fill these positions, we are seeking individuals who are distinguished: (1) In the conduct of research, demonstration projects, and evaluations with respect to health care; (2) in the fields of health care quality research or health care improvement; (3) in the practice of medicine; (4) in other health professions; (5) in representing the private health care sector (including health plans, providers, and purchasers) or administrators of health care delivery systems; (6) in the fields of health care economics, information systems, law, ethics, business, or public policy; and, (7) in representing the interests of patients and consumers of health care. 42 U.S.C. 299c(c)(2). Individuals are particularly sought with experience and success in activities specified in the summary above.

DATES: Nominations should be received on or before 60 days after date of publication.

ADDRESSES: Nominations should be sent to Ms. Karen Brooks, AHRQ, 540 Gaither Road, Room 3006, Rockville, Maryland 20850. Nominations may also be emailed to *Karen.Brooks@ahrq.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Karen Brooks, AHRQ, at (301) 427–1801.

SUPPLEMENTARY INFORMATION: 42 U.S.C. 299c provides that the Secretary shall appoint to the National Advisory Council for Healthcare Research and Quality twenty one appropriately qualified individuals. At least seventeen members shall be representatives of the public and at least one member shall be a specialist in the rural aspects of one or more of the professions or fields listed in the above summary. In addition, the Secretary designates, as ex officio members, representatives from other Federal agencies, principally agencies that conduct or support health care research, as well as Federal officials the Secretary may consider appropriate. 42 U.S.C. 299c(c)(3). The Council meets in the Washington, DC, metropolitan area, generally in Rockville, Maryland, approximately three times a year to provide broad guidance to the Secretary and AHRQ's Director on the direction of and programs undertaken by AHRQ.

Seven individuals will be selected presently by the Secretary to serve on the Council beginning with the meeting in the spring of 2014. Members generally serve 3-year terms. Appointments are staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the Council. Self-nominations are accepted. Nominations shall include: (1) A copy of the nominee's resume or curriculum vitae; and (2) a statement that the nominee is willing to serve as a member of the Council. Selected candidates will be asked to provide detailed information concerning their financial interests, consultant positions and research grants and contracts, to permit evaluation of possible sources of conflict of interest. Please note that once you are nominated, AHRQ may consider your nomination for future positions on the Council. Federally registered lobbyists are not permitted to serve on this advisory board pursuant to the Presidential Memorandum entitled ''Lobbyists on Agency Boards and Commissions'' dated June 10, 2010, and the Office of Management and Budget's ''Final Guidance on Appointment of Lobbyists to Federal Boards and Commissions,'' 76 FR 61756 (October 5, 2011).

The Department seeks a broad geographic representation. In addition, AHRQ conducts and supports research concerning priority populations, which include: Low-income groups; minority groups; women; children; the elderly; and individuals with special health care needs, including individuals with disabilities and individuals who need chronic care or end-of-life health care. See 42 U.S.C. 299(c). Nominations of persons with expertise in health care for these priority populations are encouraged.

Dated: April 26, 2013.

Carolyn M. Clancy,

Director.

[FR Doc. 2013–10714 Filed 5–6–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Non-Competitive One-Year Extension With Funds for Black Lung/Coal Miner Clinics Program (H37) Current Grantee

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Correction.

SUMMARY: The Health Resources and Services Administration published a notice in the **Federal Register** FR 2013–08482 (April 12, 2013), announcing the issuing of a non-competitive one-year extension with funds for the Black Lung/Coal Miner Clinics Program awards to the current grantees (included in attached chart), in amounts between $299,000 and $1.5 million over the one-year extension project period.

Correction

In the **Federal Register,** FR 2013–08482 (April 12, 2013), please make the following correction:

In the **SUPPLEMENTARY INFORMATION**, Amount of the Award(s) section correct to read:

Amount of the Award(s): Each of the current grantees will receive support at the same annual rate that was authorized in FY 2012: between $299,000 and $1.5 million. These amounts are subject to change and are based on the availability of funds.

Dated: April 30, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–10793 Filed 5–6–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request: Financial Sustainability of Human Tissue Biobanking (NCI)

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Chana Rabiner, Ph.D., Biorepositories and Biospecimen Research Branch, Cancer Diagnosis Program, 9609 Medical Center Drive, Rockville, MD 20892 or call non-toll-free number 240–276–5715 or Email your request, including your address to: *chana.rabiner@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Financial Sustainability of Human Tissue Biobanking, 0925–NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this web-based survey is to collect information regarding the challenges that human tissue biobanks encounter in achieving financially sustainable operations. The information will be used to assist the National Cancer Institute (NCI) in strategizing program plans to provide increased and tailored support for national and international biobanks. The survey will collect a combination of structured, quantitative, and free-text descriptive data that characterize the type and maturity of respondent biobanks, their sources of funding, and their usage of funding in conducting operations. The survey will also collect information describing the difficulties in maintaining funding sources and establishing new ones. Finally, the survey will elicit descriptions of techniques used to overcome the difficulties.

It is expected that the information generated by this survey will be used to inform published guidance to biobanks regarding the financial hazards to sustained operations and the means by which these hazards can be avoided or overcome.

OMB approval is requested for 1 year. There are no costs to respondents other than their time. The total estimated annualized burden hours are 822.

ESTIMATED ANNUALIZED BURDEN HOURS

Category of respondents	Number of respondents	Frequency of response	Average time per response (in hours)	Total burden hours
Estimates of Annualized Burden Hours				
Private Sector	548	1	90/60	822
Totals	548			822

Dated: May 1, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, NCI, NIH.

[FR Doc. 2013–10772 Filed 5–6–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request: The Framingham Heart Study (FHS)

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To request more information on the proposed project or to obtain a copy of data collection plans and instruments, contact Dr. Gina Wei, Division of Cardiovascular Sciences, NHLBI, NIH, Two Rockledge Center, 6701 Rockledge Drive, MSC 7936, Bethesda, MD 20892–7936, or call non-toll-free number (301) 435–0456, or email your request, including your address to: *weig@nhlbi.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: The Framingham Heart Study, 0925–0216, Extension, National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Framingham Heart Study will continue to conduct morbidity and mortality follow-up, as well as examinations, for the purpose of studying the determinants of cardiovascular disease. Morbidity and mortality follow-up will continue to occur in all of the cohorts (Original, Offspring, Third Generation, Omni Group 1, and Omni Group 2). Examinations will continue to be conducted on the Original, Offspring, and Omni Group 1 Cohorts.

OMB approval is requested for 3 years. There is no cost to the respondents other than their time. The total estimated annualized burden hours are 4264.

ESTIMATED ANNUALIZED BURDEN HOURS, ORIGINAL COHORT

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
I. Participant Components				
A. Pre-Exam:				
a. Telephone contact to set up appointment	60	1	10/60	10
b. Exam Appointment, Scheduling, Reminder, and Instructions	55	1	35/60	32
B. Exam—Cycle 32:				
a. Clinic exam	25	1	45/60	19
b. Home or nursing home visit	25	1	65/60	27
C. Annual Follow-up:				
a. Records Request	60	1	15/60	15
b. Health Status Update	45	1	15/60	11
Sub-Total: Participant Components	*60			114
II. Non-Participant Components				
A. Informant Contact (Pre-exam and Annual Follow-up)	25	1	10/60	4
B. Records Request (Annual follow-up)	50	1	15/60	13
Sub-Total: Non-Participant Components	75			17

*Number of participants as reflected in Rows I.A.a and I.C.a. above.

ESTIMATED ANNUALIZED BURDEN HOURS, OFFSPRING COHORT AND OMNI GROUP 1 COHORT

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
I. Participant Components:				
A. Pre-Exam:				
a. Telephone contact to set up apt or Health status update	300	1	10/60	50
b. Appt. or update Confirmation	250	1	10/60	42
c. Food Frequency Form	250	1	10/60	42
B. Exam:				
a. Clinic Exam	100	1	175/60	292
b. Home or nursing home visit	100	1	60/60	100
c. Consent Forms	200	1	20/60	67
C. Annual Follow-Up:				
a. Records Request	2292	1	15/60	573
b. Health Status Update	1833	1	15/60	458
Sub-Total: Participant Components	*2292			1624
II. Non-Participant Components:				
A. Informant contact (Pre-exam and Annual Follow-up)	229	1	10/60	38
B. Records Request (Annual follow-up)	2292	1	15/60	573
Sub-Total: Non-Participant Components:	2521			611

*Number of participants as reflected in Rows I.C.a. above.

ESTIMATED ANNUALIZED BURDEN HOURS, GENERATION 3 COHORT AND OMNI GROUP 2 COHORT

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
I. Participant Components				
Annual Follow-up:		1		
A. Records Request	3212	1	15/60	803

ESTIMATED ANNUALIZED BURDEN HOURS, GENERATION 3 COHORT AND OMNI GROUP 2 COHORT—Continued

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
B. Health Status Update	3212	1	15/60	803
Sub-Total: Participant Components	*3212			1606
II. Non-Participant Components				
Annual Follow-up:				
A. Informant contacts	160	1	10/60	27
B. Records Request	1060	1	15/60	265
Sub-Total: Non-Participant Components	1220			292

*Number of participants as reflected in Rows I.A. and I.B. above.

SUMMARY OF 3 TABLES COMBINED—TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Participants	5564	1	36/60	3344
Non-Participants	3816	1	14.5/60	920
Totals	9380			4264

(Note: reported and calculated numbers differ slightly due to rounding.)

Dated: April 25, 2013.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

Michael Lauer,

Director, DCVS, National Institutes of Health.

[FR Doc. 2013–10771 Filed 5–6–13; 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, Diabetes Mellitus Interagency Coordinating Committee Notice of Workshop

SUMMARY: The Diabetes Mellitus Interagency Coordinating Committee (DMICC) will hold a 2-day workshop on June 6–7, 2013. The workshop will be open to the public, with attendance limited to space available.

DATES: The workshop will be held on June 6, 2013 from 8:15 a.m. to 6:00 p.m., and June 7, 2013 from 8:15 a.m. to 4:00 p.m.

ADDRESSES: The workshop will be held at the National Institutes of Health Neuroscience Center, Conference Room B1/B2, 6001 Executive Boulevard, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: For further information concerning this workshop, contact Dr. B. Tibor Roberts, Executive Secretary of the Diabetes Mellitus Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 31 Center Drive, Building 31A, Room 9A19, MSC 2560, Bethesda, MD 20892–2560, telephone: 301–496–6623; FAX: 301–480–6741; email: *dmicc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The DMICC facilitates cooperation, communication, and collaboration on diabetes among government entities. The June 6–7, 2013, DMICC workshop will discuss new and emerging opportunities for type 1 diabetes research supported by the Special Statutory Funding Program for Type 1 Diabetes Research. An agenda for the DMICC workshop will be available by contacting Mary Allen, The Scientific Consulting Group, Inc. (*mallen@scgcorp.com;* please put ''Agenda Request for DMICC T1D Meeting'' in the subject line).

Any interested person may file written comments with the Committee by forwarding their statement to the contact person listed on this notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person. Because of time constraints for the workshop, there will not be time on the agenda for oral comments from members of the public.

Members of the public who would like to receive email notification about future DMICC meetings may register on a listserv on the DMICC Web site: *www.diabetescommittee.gov.*

Please note that seating is limited and attendance will be first-come, first-served. Non-federal individuals planning to attend the workshop should register by email to Mary Allen, The Scientific Consulting Group, Inc. (*mallen@scgcorp.com;* please put ''Registration DMICC T1D Meeting'' in the subject line) at least 7 days prior to the workshop. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below at least 10 days in advance of the workshop.

Dated: April 26, 2013.

B. Tibor Roberts,

Executive Secretary, DMICC, Office of Scientific Program and Policy Analysis, NIDDK, National Institutes of Health.

[FR Doc. 2013–10770 Filed 5–6–13; 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, DEM Fellowship Review.

Date: June 3–4, 2013.

Time: 8:00 a.m. to 05:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 1, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10718 Filed 5–6–13; 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: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.

Date: May 30, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Baltimore, 300 Light Street, Baltimore, MD 21202.

Contact Person: Boris P Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Somatosensory and Chemosensory Systems Study Section.

Date: June 4–5, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Arlington Capitol View Hotel, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–13–005: CounterACT-Exploratory/Developmental Projects.

Date: June 4, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Geoffrey G Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Instrumentation and Systems Development Study Section.

Date: June 4–5, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Kathryn Kalasinsky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Molecular Neuropharmacology and Signaling Study Section.

Date: June 4–5, 2013.

*Time:*8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Deborah L Lewis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–408–9129, *lewisdeb@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Sensorimotor Integration Study Section.

Date: June 4, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cardiovascular and Sleep Epidemiology Study Section.

Date: June 4, 2013.

Time: 9:30 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: Julia Krushkal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, 301–435–1782, *krushkalj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PA12–006: Academic Research Enhancement Award (Parent 15).

Date: June 4, 2013.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington, DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Lee S Mann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, 301–435–0677, *mannl@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 1, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10713 Filed 5–6–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended, for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Mental Health, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Mental Health.

Date: June 3–5, 2013.

Time: 5:00 p.m.–5:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Rebecca C. Steiner, Ph.D., Executive Secretary, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–4525, *steinerr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 1, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10720 Filed 5–6–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: June 2–4, 2013.

Closed: June 02, 2013, 7:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: June 03, 2013, 8:30 a.m. to 11:50 a.m.

Agenda: An overview of the Chronic Disease Epidemiology Group, Molecular & Genetic Epidemiology Group and Biomarker-Based Epidemiology Group.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: June 03, 2013, 11:50 a.m. to 1:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Open: June 03, 2013, 1:30 p.m. to 3:15 p.m.

Agenda: Poster Session.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: June 03, 2013, 3:15 p.m. to 3:45 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Open: June 03, 2013, 3:45 p.m. to 5:25 p.m.

Agenda: An overview of the Aging & Neuroepidemiology Group and Women's Health Group.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: June 03, 2013, 5:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: June 03, 2013, 8:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Open: June 04, 2013, 8:30 a.m. to 11:15 a.m.

Agenda: An overview of the Genetics, Environment & Respiratory Disease Group, Reproductive Epidemiology Group and Environmental Autoimmunity Group.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: June 04, 2013, 11:15 a.m. to 3:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Darryl C. Zeldin, M.D., Scientific Director & Principal Investigator, Division of Intramural Research, National Institute of Environmental Health Sciences, NIH, 111 TW Alexander Drive, Maildrop A2–09, Research Triangle Park, NC 27709, 919–541–1169, *zeldin@niehs.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: April 30, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10712 Filed 5–6–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Clinical Trials Units for NIAID Networks.

Date: June 12, 2013.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 1205, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Eugene R. Baizman, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–402–1464, *eb237e@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Clinical Trials Units for NIAID Networks.

Date: June 25, 2013.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 245, 6700A Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Eugene R. Baizman, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–402–1464, *eb237e@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: May 1, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10716 Filed 5–6–13; 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: Biological Chemistry and Macromolecular Biophysics Integrated Review Group Synthetic and Biological Chemistry B Study Section

Date: June 4–5, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 2 N Charles St., Baltimore, MD 21201.

Contact Person: Kathryn M Koeller, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: June 5–6, 2013.

Time: 7:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn San Diego Bayside, 4875 North Harbor Drive, San Diego, CA 92106.

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Xenobiotic and Nutrient Disposition and Action Study Section.

Date: June 5, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2172, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.

Date: June 5, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846 301–435–1236, *zhaow@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Molecular and Integrative Signal Transduction Study Section.

Date: June 5, 2013.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Raya Mandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MSC 7840, Bethesda, MD 20892, (301) 402–8228, *rayam@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

Date: June 5, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

Contact Person: Joanne T Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.

Date: June 5–6, 2013.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Chicago Hotel, 505 North Michigan Avenue, Chicago, IL 60611.

Contact Person: William A Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Vector Biology Study Section.

Date: June 5, 2013.

Time: 8:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.

Date: June 5–6, 2013.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites—Chicago O'Hare—Rosemont, 5500 N. River Road, Rosemont, IL 60018.

Contact Person: Aftab A Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–12–009: Enhancing GTEx with Molecular Analyses of Stored Biospecimens (U01).

Date: June 5–6, 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: David R Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Liver and Gastrointestinal Physiology and Pathophysiology.

Date: June 5, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martha Garcia, Ph.D., Scientific Reviewer Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2186, Bethesda, MD 20892, 301–435–1243, *garciamc@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Enabling Bioanalytical and Imaging Technologies.

Date: June 5, 2013.

Time: 3:00 p.m. to 6:00 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: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Clinical Molecular Imaging and Probe Development.

Date: June 5–6, 2013.

Time: 5:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Seattle Airport Marriott, 3201 South 176th Street, Seattle, WA 98188.

Contact Person: Eileen W Bradley, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 1, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10715 Filed 5–6–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: May 30, 2013.

Open: 8:30 a.m. to 2:00 p.m.

Agenda: Presentation of NIMH Director's report and discussion of NIMH program and policy issues.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room C/D/E, Rockville, MD 20852.

Closed: 2:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room C/D/E, Rockville, MD 20852.

Contact Person: Jane A. Steinberg, Ph.D., Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–5047.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 1, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10719 Filed 5–6–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Health Assessment and Translation Evaluation of the State of the Science for Transgenerational Inheritance of Health Effects; Request for Information

SUMMARY: The Office of Health Assessment and Translation (OHAT) of the Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), is initiating one or more systematic reviews to examine the state of the science for transgenerational inheritance of health effects. The specific scope of the evaluation will be determined following a phase of exploratory screening of the literature and consideration of responses to this request for information (RFI). OHAT requests information on the proposed approach for conducting the exploratory screening of the literature and the identification of scientists with knowledge or expertise relevant to this topic.

DATES: The deadline for receipt of information is June 28, 2013.

ADDRESSES: Information should be submitted at *http://ntp.niehs.nih.gov/go/38656*.

FOR FURTHER INFORMATION CONTACT: Vickie R. Walker, Health Scientist, OHAT, DNTP, NIEHS, P.O. Box 12233, MD K2–04, Research Triangle Park, NC 27709; telephone (919) 541–4514; FAX: (301) 480–3337; *vickie.walker@nih.gov*. Courier Address: NIEHS, Room 2163, 530 Davis Drive, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background: There is a large body of evidence indicating that early life exposures can lead to disease outcomes later in life. The effects of these exposures are thought to be limited to the exposed generation, such that subsequent generations are unaffected by the exposure history of their parents and grandparents. However, recent reports have suggested that this may not be the case, and that adverse outcomes may be carried over to multiple unexposed generations. This phenomenon is known as ''transgenerational inheritance.'' If the effects of exposure can indeed be transmitted to subsequent generations, this would have major public health implications. It is critical to determine how widespread and robust this phenomenon is, the factors that influence it, the mechanism by which it occurs, and the range of possible phenotypic outcomes (see *http://grants.nih.gov/grants/guide/rfa-files/RFA-ES-12-006.html*). To assist with this effort, OHAT is initiating one or more evaluations using systematic review methodology to examine the state of the science for transgenerational inheritance of health effects associated with exposure to a wide range of stressors (e.g., environmental chemicals, drugs of abuse, nutrition and diet, pharmaceuticals, infectious agents, or stress).

The specific scope of the evaluation will be determined following a phase of exploratory screening of the literature and consideration of responses to this RFI.

Request for Information: A document outlining the proposed approach to conduct the exploratory screening is available at *http://ntp.niehs.nih.gov/go/38656*. OHAT requests information on the proposed approach for conducting the exploratory screening of the literature and the identification of scientists with knowledge or expertise relevant to this topic. Specifically, this information will help to (1) refine the proposed literature search strategy and criteria used to conduct the exploratory screening; (2) identify potential areas of focus for the systematic review(s); (3) identify unpublished, ongoing, or planned studies related to transgenerational inheritance; and (4) identify scientists with expertise or knowledge relative to this topic.

Responses are requested from all interested parties, such as the research community, health professionals, educators, policy makers, industry, and the public. Responses to this RFI are voluntary. OHAT does not intend to publish a summary of responses received or any other information provided, except very broad characterizations. Despite this, proprietary, classified, or confidential information should not be included in the response. This RFI is for planning purposes only and is not a solicitation for applications or an obligation on the part of the U.S. Government to provide support for any ideas identified in response to it. Please note that the U.S. Government will not pay for the preparation of any information submitted or for its use of that information. The U.S. Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted.

Future updates on this project, will be posted at *http://ntp.niehs.nih.gov/go/38159*. Individuals interested in receiving updates on this and other NTP projects are encouraged to register to the NTP Listserv (*http://ntp.niehs.nih.gov/go/getnews*).

Background Information on the NTP and OHAT: The NTP is an interagency program, established in 1978 (43 FR 53060) and headquartered at the NIEHS, whose mission is to evaluate agents of public health concern by developing and applying tools of modern toxicology and molecular biology. The NTP carries out literature analysis activities in OHAT and the Office of the Reports on Carcinogens within the DNTP. The NTP also designs and conducts laboratory studies and testing programs and analyzes its findings to assess potential hazards to human health from exposure to environmental substances (see *http://ntp.niehs.nih.gov/*).

OHAT was established to serve as an environmental health resource to the public and to regulatory and health agencies. This office conducts evaluations to assess the evidence that environmental chemicals, physical substances, or mixtures (collectively referred to as ''substances'') cause adverse health effects and provides opinions on whether these substances may be of concern given what is known about current human exposure levels. OHAT also organizes workshops or state-of-the-science evaluations to address issues of importance in environmental health sciences. OHAT assessments are published as NTP Monographs. Information about OHAT is found at *http://ntp.niehs.nih.gov/go/ohat*.

Dated: April 26, 2013.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2013–10726 Filed 5–6–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Start-Up Exclusive License: 1. Catalytic Domains of Beta (1,4)-Galactosyltransferase I Having Altered Donor and Acceptor Specificities Domains, That Promote in Vitro Protein Folding and Methods for Their Use; 2. Targeted Delivery System for Bioactive Agents

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), that the National

Institutes of Health, Department of Health and Human Services, is contemplating the grant of a start-up exclusive patent license to practice the inventions embodied in:

1. U.S. Patent 7,482,133 and AU Patent 2004204463, HHS Ref. E–230–2002/2–US–03 and E–230–2002/2–AU–07; Title: Catalytic Domains of Beta (1,4)-Galactosyltransferase I Having Altered Donor And Acceptor Specificities Domains, That Promote In Vitro Protein Folding And Methods For Their Use; Inventors: Pradman K. Qasba and Boopathy Ramakrishnan (NCI).

2. U.S. Patent Application 10/580,108, HHS Ref E–037–2004/0–US–03; Title: Efficient Tagging of The Modified Galactose to the Free N-acetylglucosamine Moieties Of Glycoproteins With Tyr289Leu-Gal-T1 Mutant; Inventors: Pradman K. Qasba and Boopathy Ramakrishnan (NCI).

to SynAffix B.V., which is located in The Netherlands. The exclusive license is one which qualifies under the Start-Up License Agreement program which is in place from October 1, 2011 through September 30, 2013. The patent rights in these inventions have been assigned to the United States of America.

DATES: Only written comments and/or application for a license that are received by the NIH Office of Technology Transfer on or before May 22, 2013 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: John Stansberry, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: *stansbej@mail.nih.gov*; Telephone: 301–435–5236; Facsimile: 301–402–0220.

SUPPLEMENTARY INFORMATION: The prospective worldwide start-up exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

E–230–2002/0,/1,/2—The present invention is based on the discovery that the enzymatic activity of β-(1,4)-galactosyltransferase can be altered such that the enzyme can make chemical bonds that are very difficult to make by other methods. The ability to synthesize these types of bonds has many applications in research and medicine and maybe helpful in developing pharmaceutical agents and improved vaccines that can be used to treat diseases.

E–037–2004/0—This invention describes the synthesis by the genetically engineered enzyme, Y289L-Gal-T1, of a unique disaccharide linkage of a glycoprotein, a modified UDP-α-galactose, that contains a chemically reactive ketone group (-$CH_2C(=O)$-CH3) at the C2 position of galactose. In Y289L-Gal-Tl, the binding pocket for DOP-α-galactose has been enlarged to accommodate modifications at the C_2 position of galactose, like the ketone moiety above, that can serve as a neutral, yet versatile chemical handle. Glycoproteins containing a reactive ketone, such as monoclonal antibodies, could be then labeled with other agents useful for imaging or therapy.

The field of use may be limited to conjugated glycoproteins for pharmaceuticals made using Licensed Patent Rights in combination with Licensee's proprietary or exclusively in-licensed Intellectual Property rights. For the avoidance of doubt, this Licensed Field of Use excludes use of Licensed Patent Rights solely.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 29, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–10721 Filed 5–6–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0082]

Agency Information Collection Activities: Application To Replace Permanent Resident Card, Form I–90, Revision of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment on this proposed revision of a currently approved collection. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 8, 2013.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0082 in the subject box, the agency name and Docket ID USCIS–2009–0008. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.Regulations.gov* under e-Docket ID number USCIS–2009–0008;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies

should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Application to Replace Permanent Resident Card.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–90, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form will be used by USCIS to determine eligibility to replace a Lawful Permanent Resident Card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

464,283 respondents responding via the paper Form I–90 at an estimated 1 hour and 45 minutes (1.75 hours) per response.

315,440 respondents responding via the Electronic Immigration System (ELIS) requiring an estimated 30 minutes (.5 hours) per response.

779,723 respondents requiring Biometric Processing at an estimated 1 hour and 10 minutes (1.17 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,882,491 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: May 1, 2013.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2013–10723 Filed 5–6–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Passenger List/Crew List (CBP Form I–418)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing information collection: 1651–0103.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Passenger List/Crew List (CBP Form I–418). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 8, 2013, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document the CBP is soliciting comments concerning the following information collection:

Title: Passenger List/Crew List.

OMB Number: 1651–0103.

Form Number: CBP Form I–418.

Abstract: CBP Form I–418 is prescribed by the Department of Homeland Security, Customs and Border Protection (CBP), for use by masters, owners, or agents of vessels in complying with Sections 231 and 251 of the Immigration and Nationality Act (INA). This form is filled out upon arrival of any person by water at any port within the United States from any place outside the United States. The master or commanding officer of the vessel is responsible for providing CBP officers at the port of arrival with lists or manifests of the persons on board such conveyances. CBP is working to allow for electronic submission of the information on CBP Form I–418. This form is provided for in 8 CFR 251.1, 251.3, and 251.4. A copy of CBP Form I–418 can be found at *http://forms.cbp.gov/pdf/CBP_Form_I418.pdf.*

Current Actions: This submission is being made to extend the expiration date with no change to information collected or to CBP Form I–418.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 95,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Hours: 95,000.

Dated: May 1, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–10727 Filed 5–6–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Trusted Traveler Programs

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0121.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Trusted Traveler Programs. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before July 8, 2013, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Trusted Traveler Programs (Global Entry, SENTRI and FAST).

OMB Number: 1651–0121.

Form Numbers: 823S (SENTRI) and 823F (FAST).

Abstract: This collection of information is for CBP's Trusted Traveler Programs including the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), which allows expedited entry at specified southwest land border ports of entry; the Free and Secure Trade Program (FAST), which provides expedited border processing for known, low-risk commercial drivers; and Global Entry which allows pre-approved, low-risk, air travelers expedited clearance upon arrival into the United States.

The purpose of all of these programs is to provide prescreened travelers expedited entry into the United States. The benefit to the traveler is less time spent in line waiting to be processed. These Trusted Traveler programs are provided for in 8 CFR 235.7.

This collection of information involves the data collected on the applications and kiosks for these Trusted Traveler Programs. Applicants may apply to participate in these programs by using the Global On-line Enrollment System (GOES) at *https://goes-app.cbp.dhs.gov*. Or they may also apply for SENTRI and FAST using paper forms (CBP Form 823S for SENTRI and CBP Form 823F for FAST) available at *http://www.cbp.gov* or at Trusted Traveler Enrollment Centers.

After arriving at the Federal Inspection Services area of the airport, participants use a self-serve inspection process, in lieu of inspection by an officer, by going to a Global Entry kiosk to have a photograph and fingerprints taken, submit identifying information, and to answer several questions about items they are bringing into the United States. When using the Global Entry kiosks, participants are required to declare all articles being brought into the United States pursuant to 19 CFR 148.11.

Current Actions: This submission is being made to extend the expiration date and to revise the burden hours as a result of updated estimates of the number of applicants for Global Entry and SENTRI. The burden hours were also adjusted to reflect a revised estimated time to complete the Global Entry application. The burden hours also reflect an increase in the number of respondents using the Global Entry kiosks and a decrease in the estimate of time it takes to use the kiosks.

There is no change to the information being collected on the Trusted Traveler forms, the Global On-line Enrollment System (GOES) or on the Global Entry kiosks.

Type of Review: Extension with a change to the burden hours.

Affected Public: Individuals and Businesses.

SENTRI (Form 823S):

Estimated Number of Annual Respondents: 46,000.

Estimated Number of Total Annual Responses: 46,000.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 30,820.

Estimated Annual Costs: $5,623,500.

FAST (Form 823F):

Estimated Number of Annual Respondents: 28,910.

Estimated Number of Total Annual Responses: 28,910.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 19,370.

Estimated Annual Costs: $1,445,500.

Global Entry:

Estimated Number of Annual Respondents: 628,000.

Estimated Number of Total Annual Responses: 628,000.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 420,760.

Estimated Annual Costs: $62,800,000.

Global Entry Kiosks:

Estimated Number of Annual Respondents: 2,200,000.

Estimated Number of Total Annual Responses: 2,200,000.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 35,200.

Dated: May 1, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–10728 Filed 5–6–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: African Growth and Opportunity Act Certificate of Origin

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0082.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the African Growth and Opportunity Act Certificate of Origin (AGOA). This request for comments is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before July 8, 2013.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street, NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: African Growth and Opportunity Act Certificate of Origin.

OMB Number: 1651–0082.

Form Number: None.

Abstract: The African Growth and Opportunity Act (AGOA) was adopted by the U.S. with the enactment of the Trade and Development Act of 2000 (Pub. L.106–200). The objectives of AGOA are (1) to provide for extension of duty-free treatment under the Generalized System of Preferences (GSP) to import sensitive articles normally excluded from GSP duty treatment, and (2) to provide for the entry of specific textile and apparel articles free of duty and free of any quantitative limits from the countries of sub-Saharan Africa.

For preferential treatment under AGOA, the exporter is required to prepare a certificate of origin and provide it to the importer. The certificate of origin includes information such as contact information for the importer, exporter and producer; the basis for which preferential treatment is claimed; and a description of the imported merchandise. The importers are required to have the certificate in their possession at the time of the claim, and to provide it to Customs and Border Protection (CBP) upon request. The collection of this information is provided for in 19 CFR 10.214, 10.215, and 10.216.

Instructions for complying with this regulation are posted on CBP.gov Web site at: *http://www.cbp.gov/linkhandler/cgov/trade/priority_trade/textiles/tbts/TBT2001/TBT–01–008.ctt/TBT–01–008.doc*.

Current Actions: This submission is being made to extend the expiration date and to revise the burden hours as a result of updated estimates by CBP of the number of AGOA Certificates of Origins prepared on an annual basis. There are no changes to the information collected.

Type of Review: Extension with a change to the burden hours.

Affected Public: Businesses.

Estimated Number of Respondents: 210.

Estimated Number of Responses per Respondent: 107.

Estimated Total Annual Responses: 22,494.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 7,648.

Dated: May 1, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–10730 Filed 5–6–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5689–N–04]

Notice of Proposed Information Collection; Comment Request: Fellowship Placement Pilot Program

AGENCY: Office of the Assistant Secretary for Policy Development & Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 8, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Kheng Mei Tan, Office of Policy Development & Research, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–4986 (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: Fellowship Placement Pilot Program Evaluation.

OMB Control Number, if applicable: 2528–0272.

Description of the need for the information and proposed use: The Fellowship Placement Program places highly-skilled fellows in distressed cities to work on strategic projects and help build city capacity. The fellowship program is seeking to evaluate its program through surveys of program stakeholders.

Agency form numbers, if applicable: N/A.

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 to complete a survey is 1 hour. The number of respondents is estimated to be 32 respondents. The total number of burden hours is 32 hours.

Status of the proposed information collection: This is a revision to add surveys for program evaluation.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 1, 2013.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2013–10867 Filed 5–6–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5787–N–23]

Notice of Proposed Information Collection; Comment Request: Financial Statement of Corporate Application for Cooperative Housing Mortgage

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:* July 8, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Theodore K. Toone, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1142 (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: Financial Statement of Corporate Application for Cooperative Housing Mortgage.

OMB Control Number, if applicable: 2502–0058.

Description of the need for the information and proposed use: The information collected on the ''Financial Statement of Corporate Application for Cooperative Housing Mortgage'' form provides HUD with information to determine feasibility, mortgagor/contractor acceptability as well as the financial data, costs, drawings, and specifications.

Agency form numbers, if applicable: HUD–93232A.

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 10. The number of respondents is 10, the number of responses is 10, the frequency of response is monthly, and the burden hour per response is 1 hour.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 1, 2013.

Laura M. Marin,

Acting General Deputy Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–10866 Filed 5–6–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5708–D–01]

Redelegation of Authority to Regional Public Housing Directors and Public Housing Field Office Directors

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: Section 7(d) of the Department of Housing and Urban Development Act, as amended, authorizes the Secretary to delegate functions, powers, and duties as the Secretary deems necessary. By **Federal Register** notice published August 4, 2011, the Secretary delegated to the Assistant Secretary for Public and Indian Housing and the General Deputy Assistant Secretary for Public and Indian Housing authority for the administration of HUD's Public and Indian Housing (PIH) programs, and authorized the Assistant Secretary to further redelegate such authority. In this notice, the Assistant Secretary redelegates authority through the General Deputy Assistant Secretary to the Regional Public Housing Directors and PIH Field Office Directors to approve Section 30 mortgage or security interests in a public housing project or other public housing agency (PHA) property, as described in this redelegation of authority, in the approval of Energy Performance Contracts.

DATES: *Effective Date:* May 1, 2013.

FOR FURTHER INFORMATION CONTACT: Linda Bronsdon, AICP, Program Analyst, Office of Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 490 L'Enfant Plaza, Suite 2206, Washington, DC 20024, email address *Linda.K.Bronsdon@hud.gov,* telephone number 202–402–3494. (This is not a toll-free number.) This number may be accessed through TTY by calling the toll-free Federal Relay Service at telephone number 1–800–877–8339.

SUPPLEMENTARY INFORMATION: As described in the Summary section of this notice, on August 4, 2011 (76 FR 47224), the Secretary delegated authority for the administration of PIH programs to the Assistant Secretary for PIH and the General DAS for PIH. In a separate notice also published on August 4, 2011 (76 FR 47229), these two officials redelegated certain aspects of their authority to Regional Public Housing Directors. Included in the redelegated authority to the Regional Public Housing Directors was concurrent approval authority for energy performance contracts (EPC). In today's redelegation of authority, the Assistant Secretary for PIH redelegates authority through the General Deputy Assistant Secretary for PIH, to the Regional Public Housing Directors and the PIH Field Office Directors to approve mortgage or security interests, as provided under section 30 of the United States Housing Act of 1937, in the approval of EPCs. To the extent that today's notice redelegates authority to add an approval authority for EPC reviews, this notice supersedes the August 4, 2011, redelegation of authority.

Section A. Authority Redelegated

Authority is hereby redelegated by the Assistant Secretary, through the General Deputy Assistant Secretary for PIH, to Regional Public Housing Directors and Public Housing Field Office Directors for reviews and approvals of EPCs that may include approvals of security interests under section 30 of the United States Housing Act of 1937, (1937 Act), as amended, (42 U.S.C. 1437z-2). The Quality Housing and Work Responsibility Act of 1998 (QHWRA) (Pub. L. 105–276, October 21, 1998) added section 30 to the 1937 Act. Pursuant to section 30 and subject to HUD approval, a PHA may mortgage or grant a security interest in any public housing project or other property of the PHA (e.g., its public housing real property or other (personal) property (e.g., bank accounts or energy conservation improvements) and may mortgage or otherwise encumber such property covered by the 1937 Act that it owns.

HUD reviews EPCs under the authority of section 9(e) of the 1937 Act. If an EPC proposal also requires a section 30 approval, the Regional Public Housing Director or Public Housing Field Office Director shall review the section 30 request along with the EPC proposal review. For mixed finance projects with EPCs requiring section 30 approval, the review and approval is part of the mixed finance evidentiary process and involves Declarations of Restrictive Covenants (DORCs). The imposition of a mortgage or security interest requires a legal opinion from the Office of General Counsel that the mortgage or security interest does not supersede or encumber the Declaration of Trust or DORCs as applicable.

Section B. Excepted Authority That Remains With the Secretary, Assistant Secretary, or Deputy Assistant Secretaries

Today's redelegation of authority does not amend Sections A, C, or D of the August 4, 2011, redelgation of authority.

Section C. Authority to Further Redelegate

The authority redelegated by Section A of today's notice may be further redelegated, as appropriate, by Regional Public Housing Directors or Public Housing Field Office Directors to Public Housing Hub Directors, Program Center Coordinators, and other ranking program officials on site or out-stationed in accordance with a written redelegation of authority. Such subsequent redelegations may follow the format presented herein or may be a memorandum stating that specific authority is hereby designated. Time limits for such any further redelegated authority may be added.

Section D. Authority Superseded

To the extent that today's notice redelegates authority to add an approval authority for EPC reviews, this notice supersedes the August 4, 2011, redelegation of authority.

Section E. Consultation and Coordination With the General Counsel

The Assistant Secretary for PIH, the General Deputy Assistant Secretary, Deputy Assistant Secretaries, Regional Public Housing Directors and all others covered by this redelegation shall consult with the General Counsel, as required and, when required, such consultation shall be in accordance with such protocols as administratively agreed to by the General Counsel and the Assistant Secretary for PIH or the General Deputy Assistant Secretary. This consolidated delegation of authority is to be exercised consistently with the delegation from the Secretary to the General Counsel.

Authority: Section 7 (d) of the Department of Housing and Urban Development Act, as amended, (42 U.S.C. 3535(d)).

Dated: May 1, 2013.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2013–10864 Filed 5–6–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES956000 .L1420]

Eastern States: Filing of Plat of Survey; Mississippi

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States office in Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management-Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Dominica Van Koten. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Indian Affairs.

The lands surveyed are:

Choctaw, Mississippi

T. 14 N., R. 12 W.

The dependent resurvey of tract 1 and tract 2 in section 3, in Township 14 North, Range 12 East, of the Choctaw Meridian, in the State of Mississippi, and was accepted March 12, 2013. We will place copies of the plat we described in the open files. It will be

available to the public as a matter of information.

If BLM receives a protest against the survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: May 1, 2013.

Dominica Van Koten,

Chief Cadastral Surveyor.

[FR Doc. 2013–10791 Filed 5–6–13; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12739; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion for Native American Human Remains and Funerary Objects in the Possession of Big Cypress National Preserve, National Park Service, Ochopee, FL; Correction

Correction

In notice document 2013–10220 appearing on page 25468 in the issue of May 1, 2013, make the following correction:

On page 25468, in the third column, beginning in the sixth line, ''remains and funerary objects were collected from six sites by National Park Service archeologists in 1977.'' should read ''The human remains and funerary objects were collected from six sites by National Park Service archeologists in 1977.''.

[FR Doc. C1–2013–10220 Filed 5–6–13; 8:45 am]

BILLING CODE 1505–01–D

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–791/826 (Consolidated)]

Certain Electric Fireplaces, Components Thereof, Manuals for Same, Certain Process for Manufacturing or Relating to Same and Certain Products Containing Same Issuance of a Limited Exclusion Order; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to modify-in-part and reverse-in-part a final initial determination (''ID'') (Order No. 20) of the presiding administrative law judge (''ALJ'') finding the remaining respondents, Shenzhen Reliap Industrial Co. (''Reliap'') and Yue Qiu Sheng (''Yue''), both of Shenzhen, China, in default and in violation of section 337. The Commission has also determined to affirm Order No. 19 denying Yue's motion for summary determination. The Commission has issued a limited exclusion order directed against covered products of Reliap and Yue.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Investigation No. 337–TA–791 (''the 791 investigation'') on July 20, 2011, based on a complaint filed by Twin-Star International, Inc. of Delray Beach, Florida and TS Investment Holding Corp. of Miami, Florida (collectively, ''Twin-Star''). 76 FR 43345–46 (July 20, 2011). The Commission instituted Investigation No. 337–TA–826 on January 19, 2012, based on another complaint filed by Twin-Star, and consolidated it with the 791 investigation. 77 FR 2757–58 (Jan. 19, 2012). The complaints allege a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electric fireplaces, components thereof, manuals for same, certain processes for manufacturing or relating to same and certain products containing same by reason of infringement of U.S. Copyright Nos. TX0007350474; TX0007350476; VA0001772660; and VA0001772661; and by reason of misappropriation of trade secrets, breach of contract, and tortious inference with contract, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The Commission's notice of investigation named Reliap, Yue, and Whalen Furniture Manufacturing, Inc. (''Whalen'') of San Diego, California as respondents. On July 3, 2012, the Commission issued notice of its determination not to review the ALJ's ID terminating the investigation as to Whalen based on a consent order and settlement agreement.

On June 20, 2012, Twin-Star moved for an ID finding the remaining respondents, Reliap and Yue, in default and in violation of section 337 pursuant to Commission Rule 210.17, 19 CFR 210.17. The Commission investigative attorney filed a response in support of the motion.

On July 13, 2012, the ALJ granted Twin-Star's motion and issued the final ID in this investigation finding the remaining respondents in default and in violation of section 337 pursuant to 19 CFR 210.17 for failure to participate in the investigation following withdrawal of their counsel on March 12, 2012. The ID also contained the ALJ's recommended determination on remedy. Specifically, the ALJ recommended issuance of a limited exclusion order with respect to the covered products of the defaulting respondents.

Also on July 13, 2012, the ALJ issued Order No. 19, denying a motion filed by Yue on December 11, 2011, for summary determination that Twin-Star's breach of contract claim is outside the scope of the investigation. On July 20, 2012, the Commission investigative attorney (''IA'') petitioned for review of Order No. 19 and the ALJ's final ID. Twin-Star filed a response in opposition on July 30, 2012.

On September 14, 2012, the Commission determined to review Order No. 19 and to review-in-part the final ID to the extent that it finds a violation of section 337 based on the breach of contract allegation. The determinations made in the final ID that were not reviewed became final determinations of the Commission by operation of rule. *See* 19 U.S.C. 210.42(h).

The Commission requested briefing from the parties and interested non-parties regarding a question concerning the issue under review and on the issues of remedy, the public interest, and

bonding. 77 FR 58407–09 (Sept. 20, 2012).

On October 12, 2012, Twin-Star and the IA each filed a brief on the issues for which the Commission requested written submissions. The International Trade Commission Trial Lawyers Association filed a brief concerning the issue under review on the same date. The IA filed a reply brief on November 9, 2012.

Having reviewed the record in this investigation, including the final ID, Order No. 19, and the parties' written submissions, the Commission has determined to modify-in-part and reverse-in-part the final ID as follows: (1) Vacating as moot the final ID to the extent that it finds a violation of section 337 based on the breach of contract and tortious interference with contract allegations with respect to the non-competition and non-solicitation provisions of the asserted contract; and (2) reversing the final ID to the extent it finds a violation based on the non-disclosure provision of the asserted contract. The Commission also affirms Order No. 19.

The Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry for consumption of electric fireplaces, components thereof, manuals for same, and products containing same that are manufactured abroad by or for, or imported by or for, Yue or Reliap, or any of their affiliated companies, parents, subsidiaries, licensees, contractors, or other related business entities, or successors or assigns: (1) Using misappropriated trade secrets asserted in this investigation; and/or (2) that infringe one or more of U.S. Copyright Nos. TX0007350474, TX0007350476, VA0001772660, or VA0001772661.

The Commission determined that the public interest factors enumerated in section 337(d)(1) (19 U.S.C. 1337(d)(1)) do not preclude issuance of the limited exclusion order. Finally, the Commission determined that a bond in the amount of 145 percent of the entered value of the covered products that are entered for consumption is required to permit temporary importation during the period of Presidential review (19 U.S.C. 1337(j)). The Commission's order and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission has terminated this investigation. The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.17, 210.42, 210.45, and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.17, 210.42, 210.45, 210.50).

By order of the Commission.

Issued: May 1, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–10739 Filed 5–6–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0049]

Proposed Collection; Comments Requested; Extension of a Currently Approved Collection: InfraGard Membership Application and Profile

ACTION: 30-Day notice.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Cyber Division's National Industry Partnerships Unit (NIPU) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 78, Number 46, Pages 15046–15047, on March 8, 2013, allowing for a 60 day comment period.

Comments are encouraged and will be accepted for 30 days until June 6, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments (especially on the estimated public burden or associated response time), suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Stephen Jamison, Supervisory Special Agent, National Industry Partnerships Unit, Federal Bureau of Investigation, Cyber Division, FBIHQ, 935 Pennsylvania Avenue, Washington, DC 20035 or facsimile at (202) 651–3187.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following three points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of the information, including the validity of the methodology and assumptions used;

(3) 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Forms:* InfraGard Membership Application and Profile.

3. *Agency Form Number, if any, and the applicable component of the department sponsoring the collection:* N/A.

Sponsor: National Industry Partnership Unit (NIPU) Cyber Division of the Federal Bureau of Investigation (FBI), Department of Justice (DOJ)

4. *Affected Public who will be asked or required to respond, as well as a brief abstract:*

Primary: Members of the public and private-sector with a nexus to critical infrastructure protection interested in being a member of the FBI's National InfraGard Program.

Brief Abstract: Personal information is collected by the FBI for vetting and background information to obtain membership to the Program and access to its secure portal. InfraGard is a two-way information sharing exchange between the FBI and members of the public and private sector focused on intrusion and vulnerabilities affecting 16 critical infrastructures. Members are provided access to law enforcement sensitive analytical products pertaining to their area of expertise.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* InfraGard has 55,677 members and receives approximately 7,200 new applications for membership per year. The average response time for reading and responding to the membership application and profile is estimated to be 30 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden for completing the application and profile is 3,600 hours.

If additional information is required, contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, 145 N Street NE., Room 1407B, Washington, DC 20530.

Dated: May 2, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–10765 Filed 5–6–13; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On April 24, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Central District of California in the lawsuit entitled *United States* v. *LeVan Specialty Company, Inc.,* Civil Action No. 2:13–cv–02887–PA–JEMx.

The Consent Decree resolves a claim against LeVan Specialty Company, Inc., (''LeVan''), under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607 related to releases and threatened releases of hazardous substances at the Puente Valley Operable Unit (''PVOU'') of the San Gabriel Valley Superfund Site, Area 4, Los Angeles County, California (the ''Site''). The Consent Decree, reflecting an ability-to-pay settlement, recovers $155,000 in response costs. The Consent Decree provides a covenant not to sue to LeVan for past and certain future costs and response actions at the site under Sections 106 and 107 of CERCLA and Section 7003 of the Resource Conservation and Recovery Act, (''RCRA''), 42 U.S.C. 6973.

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. *LeVan Specialty Company, Inc.,* D.J. Ref. No. 90–11–2–354/30. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By e-mail ..	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Under Section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

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 $9.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–10725 Filed 5–6–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed First Amendment to Consent Decree Under the Clean Water Act

On April 30, 2013, the Department of Justice lodged a proposed first amendment to a consent decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States, et al.* v. *City of Fostoria, Ohio,* Civil Action No. 3:06 CV 1626, consolidated with 3:06 CV 1627.

Under the original 2006 consent decree, the City of Fostoria, Ohio (''Fostoria'') agreed to undertake numerous measures to come into compliance with the Clean Water Act, including developing and implementing a Long-Term Control Plan (''LTCP''). Fostoria still is in the process of complying with the 2006 Decree. However, under the proposed first amendment, the completion of the construction required by the recent, conditionally-approved LTCP is extended from December 31, 2025, to December 31, 2029.

The publication of this notice opens a period of public comment on the first amendment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al.* v. *City of Fostoria, Ohio,* D.J. Ref. No. 90–5–1–1–08204. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By e-mail ..	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the first amendment may be examined and downloaded at this Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the first amendment 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 in the amount of $ 2.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–10798 Filed 5–6–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0042]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Statement of Process-Marking of Plastic Explosives for the Purpose of Detection

ACTION: 30-Day notice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register**

Volume 78, Number 42, page 14120 on March 4, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 6, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the eight digit OMB number or the title of the collection.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Statement of Process-Marking of Plastic Explosives for the Purpose of Detection.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None.

Need for Collection

The information contained in the statement of process is required to ensure compliance with the provisions of Public Law 104–132. This information will be used to ensure that plastic explosives contain a detection agent as required by law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 8 respondents will complete the required information in 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 16 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: May 2, 2013.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2013–10766 Filed 5–6–13; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0068]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Police Check Inquiry and Pre-Screening Qualifications Certification

ACTION: 30-Day notice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 78, Number 42, page 14121 on March 4, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 6, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the eight digit OMB number or the title of the collection.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Revision of an existing collection of information.

(2) *Title of the Form/Collection:* Police Check Inquiry and Pre-Screening Qualifications Certification.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 8620.42 and ATF F 8620.62; Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households Other: Business or Other For-Profit.

Need for Collection

The information requested is necessary to determine if individuals (potential contractors, task force officers, and volunteers) interested in

providing services to ATF meet DOJ and ATF basic qualification requirements to be considered for access to ATF information, information technology systems, and/or facilities. These agency specific requirements include, but are not limited to, residency, citizenship, drug use, financial history, firearms/explosives licensing, criminal history, and conduct qualifications. The revision to this collection is adding a new form ATF Form 8620.62 for individuals that require unescorted access to ATF information and facilities, and minor clarifying information on ATF Form 8620.42.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1000 respondents will take 5 minutes to complete ATF F 8620.42 and 1500 respondents will take 7 minutes to complete ATF F 8620.62.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 258 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: May 2, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–10768 Filed 5–6–13; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0055]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Identification of Explosive Materials

ACTION: 30-Day notice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 78, Number 42, page 14120 on March 4, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 6, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the eight digit OMB number or the title of the collection.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Identification of Explosive Materials.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None.

Need for Collection

The regulations at 27 CFR 555.109 require that manufacturers of explosive materials place marks of identification on the materials manufactured. Marking of explosives enables law enforcement entities to more effectively trace explosives from the manufacturer through the distribution chain to the end purchaser. This process is used as a tool in criminal enforcement activities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 2,184 respondents will respond to this information collection. Estimated time for a respondent to respond is none. Manufacturers are required to place markings on explosives, therefore, the burden hours are considered usual and customary. 5 CFR 1320.3(b)(2) states, there is no burden when the collection of information is usual and customary.

(6) *An estimate of the total burden (in hours) associated with the collection:* The estimated annual total burden hours associated with this collection is 1 hour.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: May 2, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–10767 Filed 5–6–13; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Wage and Hour Division

RIN 1235–0007

Proposed Extension of the Labor Standards for Federal Service Contracts Information Collection

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 44 U.S.C. 3056(c)(2)(A). This

program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Labor Standards for Federal Service Contracts—Regulations 29 CFR, Part 4. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 8, 2013.

ADDRESSES: You may submit comments identified by Control Number 1235–0007, by either one of the following methods: *Email: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Mary Ziegler, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

The Wage and Hour Division of the U.S. Department of Labor administers the McNamara-O'Hara Service Contract Act (SCA), 41 U.S.C. 351 *et seq.* The McNamara-O'Hara Service Contract Act (SCA) applies to every contract entered into by the United States or the District of Columbia, the principal purpose of which is to furnish services to the United States through the use of service employees. The SCA requires contractors and subcontractors performing services on covered federal or District of Columbia contracts in excess of $2,500 to pay service employees in various classes no less than the monetary wage rates and to furnish fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement. Safety and health standards also apply to such contracts. The compensation requirements of the SCA are enforced by the Wage and Hour Division.

A. Vacation Benefit Seniority List

Service Contract Act section 2(a), provides that every contract subject to the Act must contain a provision specifying the minimum monetary wages and fringe benefits to be paid to the various classes of service employees performing work on the contract. Many wage determinations (WDs) issued for recurring services performed at the same Federal facility provide for certain vested fringe benefits (e.g., vacations), which are based on the employee's total length of service with a contractor or any predecessor contractor. *See* 29 CFR 4.162. When found to prevail, such fringe benefits are incorporated in WDs and are usually stated as ''one week paid vacation after one year's service with a contractor or successor, two weeks after two years'', etc. These provisions ensure that employees receive the vacation benefit payments that they have earned and accrued by requiring that such payments be made by successor contractors who hire the same employees who have worked over the years at the same facility in the same locality for predecessor contractors

B. Conformance Record

Section 2(a) of the SCA provides that every contract subject to the Act must contain a provision specifying the minimum monetary wage and fringe benefits to be paid the various classes of service employees employed on the contract work. *See* 41 U.S.C. 351, *et seq.* Problems sometimes arise (1) when employees are working on service contracts in job classifications that DOL was not previously informed about and (2) when there are job classifications for which no wage data are available.

Section 4.6(b)(2) of 29 CFR part 4 provides a process for ''conforming'' (i.e., adding) classifications and wage rates to the WD for classes of service employees not previously listed on a WD but where employees are actually working on an SCA covered contract. This process ensures that the requirements of section 2(a) of the Act are fulfilled and that a formal record exists as part of the contract which documents the wage rate and fringe benefits to be paid for a conformed classification while a service employee(s) is employed on the contract.

The contracting officer is required to review each contractor-proposed conformance to determine if the unlisted classes have been properly classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications (and wages) listed in the WD. *See* 29 CFR 4.6(b)(2). Moreover, the contracting agency is required to forward the conformance action to the Wage and Hour Division for review and approval. *Id.* However, in any case where a contract succeeds a contract under which a class was previously conformed, the contractor may use an optional procedure known as the indexing (i.e., adjusting) procedure to determine a new wage rate for a previously conformed class. *See* 29 CFR 4.6(b)(2)(iv)(B). This procedure does not require DOL approval but does require the contractor to notify the contracting agency in writing that a previously conformed class has been indexed and include information describing how the new rate was computed. *Id.*

C. Submission of Collective Bargaining Agreement (CBA)

Sections 2(a) and 4(c) of the SCA provide that any contractor which *succeeds* to a contract subject to the Act and under which substantially the same services are furnished, shall pay any service workers employed on the contract no less than the wages and fringe benefits to which such workers would have been entitled if employed under the *predecessor* contract. *See* 29 CFR 4.163(a).

Section 4.6(l)(1) of Regulations, 29 CFR part 4, requires an incumbent (predecessor) contractor to provide to the contracting officer a copy of any CBA governing the wages and fringe benefits paid service employees

performing work on the contract during the contract period. These CBAs are submitted by the contracting agency to the Wage and Hour Division of the Department of Labor where they are used in issuing WDs for successor contracts subject to section 2(a) and 4(c) of SCA. See 29 CFR 4.4(c).

The Wage and Hour Division uses this information to determine whether covered employers have complied with various legal requirements of the laws administered by the Wage and Hour Division. The Wage and Hour Division seeks approval to renew this information collection related to the Labor Standards for Federal Service Contracts.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks an approval for the extension of this information collection that requires employers to make, maintain, and preserve records in accordance with statutory and regulatory requirements.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: Labor Standards for Federal Service Contracts-Regulations 29 CFR, Part 4.

OMB Number: 1235–0007.

Affected Public: Business or other for-profit, Not-for-profit institutions, Farms.

Total Respondents: 49,344.

Total Annual Responses: 49,344.

Estimated Total Burden Hours: 49,060.

Estimated Time per Response: Vacation Benefit Seniority List—1 hour, Conformance Record—30 minutes, Collective Bargaining Agreement—5 minutes.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Costs (operation/maintenance): $0.

Dated: April 30, 2013.

Mary Ziegler,

Director, Division of Regulations, Legislation, and Interpretation.

[FR Doc. 2013–10800 Filed 5–6–13; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL TRANSPORTATION SAFETY BOARD

Agency Information Collection Activity: Submission for OMB Review; Comment Request

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Request to Reinstate a Previously Approved Information Collection.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice announces the NTSB is submitting an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for renewal of a previously approved information collection, NTSB Form 6120.1. This ICR describes the nature of the information collection and its expected burden.

DATES: Submit written comments regarding this proposed collection of information by July 8, 2013.

ADDRESSES: Respondents may submit written comments on the collection of information to the National Transportation Safety Board, Office of Research and Engineering, 490 L'Enfant Plaza East SW., Washington, DC 20594.

FOR FURTHER INFORMATION CONTACT: Loren Groff, NTSB Office of Research and Engineering, at (202) 314–6517.

SUPPLEMENTARY INFORMATION: The NTSB is announcing the proposed extension of a public information collection and seeks public comment on the collection in accordance with the Paperwork Reduction Act. The NTSB's collection of information on Form 6120.1 is necessary to fulfill the NTSB's statutory mandate to investigate transportation accidents, because the form requests information concerning aviation accidents. This Notice informs the public that it may submit comments concerning the proposed use of this form to the NTSB. This renewal request is not associated with a rulemaking activity.

Paperwork Reduction Act Requirement

In accordance with OMB regulations that require this Notice for proposed Information Collection Requests, the NTSB herein notifies the public that it may submit comments on this proposed information collection. Title 5 CFR 1320.8(d)(1) requires an agency, prior to submitting a collection of information to OMB for approval, to ''provide 60-day notice in the **Federal Register**, and otherwise consult with members of the public and affected agencies concerning . . . [the] proposed collection of information.'' Section 1320.8(d)(1) also requires the NTSB to solicit comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the NTSB to perform its mission; (2) the accuracy of the estimated burden; (3) ways for the NTSB to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The NTSB will summarize and/or include the public's comments in its subsequent request for OMB's clearance of this information collection pursuant to section 1320.10(a) of title 5, Code of Federal Regulations.

Description of NTSB Form 6120.1

The NTSB notes it has been using NTSB Form 6120.1 for several years to collect information concerning certain aviation accidents and incidents. The Pilot/Operator Aircraft Accident/Incident Report Form is used in determining the facts, conditions, and circumstances for aircraft accident prevention activities and for statistical purposes. The form is divided into 17 categories, which are titled as follows: Basic information; aircraft information; owner/operator information; other aircraft—collision information (if air or ground collision occurred); mechanical malfunction/failure; damage to aircraft and other property; airport information (to be completed if accident or incident occurred on approach, takeoff, or within 3 miles of an airport); flight itinerary information; fuel and services information; evacuation of aircraft; weather information at the accident/incident site; pilot ''A'' information; pilot ''B'' information; additional flight crew members; passengers/other personnel; narrative history of flight; and recommendation (concerning how the accident or incident may have been prevented). The basic information category requests information concerning the location and date and time of the accident or incident, the phase of operation during which the

accident or incident occurred, whether the occurrence was a collision with other aircraft, and the altitude if the event was an in-flight occurrence.

The aircraft information category requests the following information concerning the aircraft: manufacturer, model, serial number, registration number, weight and center of gravity of the aircraft, whether the aircraft was amateur-built, category of aircraft, type of airworthiness certificate, number of seats, type of landing gear, type of maintenance program, type and date of last inspection, total time on airframe, type of fire extinguishing system, type of reciprocating fuel system, and type of propeller. The aircraft information category also requests ''yes'' or ''no'' answers to the following: whether the aircraft was instrument flight rules (IFR) equipped; whether it had a stall warning system installed; whether the emergency locator transmitter (ELT) was activated, and additional information about the ELT, such as whether it aided in locating the accident/incident, its manufacturer, model/series, serial number, and battery type. This section of the form also requests detailed information concerning the engine(s) on the aircraft, such as the engine manufacturer, model/series, serial number, date of manufacture, type of power measurement (horsepower or pounds of thrust), total time on engine, time since last inspection, and time since overhaul. In the category entitled, ''Other Aircraft—Collision,'' the form requests a few types of information similar to that in the aircraft information category, such as the aircraft registration number, manufacturer and model, and the names and contact information for the registered owner and pilot of the other aircraft. Lastly, the form includes a categorization of the aircraft damage, whether the aircraft sustained minor or no damage, substantial damage or was destroyed.

The owner/operator section of NTSB Form 6120.1 also requests specific information concerning the status of the aircraft. For example, the category includes requests for the names and contact information for both the owner and the operator of the aircraft, the Federal Aviation Regulation under which the flight was conducted, whether the flight was a revenue sightseeing flight or air medical flight, the purpose of the flight, the type of revenue operation, type of cargo operation (if applicable), and the type of commercial operating certificate the operator holds.

The form also seeks information concerning whether the aircraft sustained a mechanical malfunction or failure. In this category, the form provides the answers of ''yes,'' ''no,'' or ''unknown,'' to the question of whether a mechanical malfunction or failure occurred. If yes, the form provides space for the respondent to provide the name of the part, manufacturer, part number, serial number, and a description of the failure. The form also requests the total time/cycles on the part at issue, as well as the number of hours since the part was inspected or overhauled.

The form requests a brief amount of information concerning damage to aircraft and other property, such as a categorization of the aircraft damage as none, minor, substantial, or destroyed; as well as whether an in-flight or on-ground fire occurred. This section of the form also includes a box in which respondents can provide a narrative description of damage to the aircraft or other property.

Regarding airport information, the form requests the airport name and identifier, the aircraft's proximity to airport (as off or on the airport or airstrip), distance and direction from airport, and the elevation of the airport. The form includes boxes for respondents to check describing the approach segment, type of IFR approach, type of visual flight rules (VFR) approach, runway information, and type and condition of runway or landing surface.

The form also requests information concerning the flight itinerary, such as the last departure point and time of departure, and the destination. By way of check-the-box responses, this category also requests information concerning the type of flight plan filed, type of air traffic control clearance or service, airspace where the accident or incident occurred, and a description of the aircraft load.

In the fuel and services category, the form requests general information, mostly via check-the-box responses, concerning fuel and services. These requests for information include the amount of fuel on board at the last takeoff (in gallons), the type of fuel, and any other services that may have occurred prior to takeoff. Similarly, the form requests a brief amount of information concerning the evacuation of the aircraft; the form only asks whether an emergency evacuation was performed and the method of exit.

The form requests information concerning weather conditions at the time of the accident. These requests within the weather category ask for information concerning the weather observation facility; the source of weather information; the method of briefing concerning weather as well as the type and completeness of the briefing; the light condition; characterization of visibility; sky and lowest cloud condition; the ceiling and its height; the restriction on visibility; the wind direction, speed, and gusts; the type and severity of turbulence; and a list of Notices to Airman and other similar advisories in effect at the time of the flight. In addition, the form requests the temperature, altimeter setting, density altitude, and dew point. Finally, this category of the form requests information concerning actual and forecasted conditions concerning icing, as well as the type and intensity of any precipitation.

Concerning the crew aboard the aircraft, the form requests information concerning both pilots, such as names and contact information, dates of birth, certificate numbers, degree of injury, seats occupied, whether the pilots used seat belts and shoulder harnesses, the types of pilot and medical certificates held, the principal occupation, and date of last aviation medical examination. With regard to each pilot's medical information, the form also requests a listing of any medical certificate limitations and waivers. The form also requests information concerning each pilot's flight reviews, such as the date of the last flight review and the type of aircraft used on the last flight review; further, the form solicits information concerning each pilot's ratings, such as aircraft ratings, instrument ratings, instructor ratings, and type ratings, as well as student endorsements. Finally, the form includes a table requesting the amount of flight time (categorized into the following sections: Total flight time, pilot-in-command time, instructor time, time in this make/model, and time during the last 90 days, 30 days, and 24 hours) concerning: All aircraft, this make and model, airplane single- and multi-engine, night, instrument, rotorcraft, glider, and lighter than air.

In a category concerning additional crewmembers, the form includes several spaces for listing the following information concerning different crewmembers: Pilot names and contact information, degree of injury, seat occupied, type of pilot certificates, whether the crewmember was type-rated for the aircraft involved in the accident or incident, and the total flight time at the time of the accident or incident. With regard to passengers, the form only requests the name, city, state, and zip code for each passenger, as well as the seat number, whether the passenger is crew, non-revenue, revenue, non-occupant, or Federal Aviation Administration (FAA).

As stated above, the form concludes with areas for a narrative history of the flight and the events or actions the respondent believes may have prevented the accident or incident. The form also includes a certification statement for the respondent to sign, attesting that the information provided on the form is complete and accurate to the best of his or her knowledge.

Use of Information on NTSB Form 6120.1

In general, the NTSB uses the information provided on Form 6120.1 to determine the facts, conditions, and circumstances for aircraft accident prevention activities and for statistical purposes. The NTSB typically receives several notifications for each accident or incident, but only requests completion of Form 6120.1 once the NTSB has determined it will pursue an investigation into the event. The NTSB's investigations of aviation accidents and incidents are exhaustive. The NTSB utilizes a ''party process,'' as described in 49 CFR part 831, for its investigations. This process involves the NTSB's invitation to outside entities to assist with an investigation as a ''party.'' The NTSB extends party status to those organizations that can provide the necessary technical assistance to the investigation. The investigator-in-charge (IIC), for example, often confers party status to the operator, aircraft, systems, and powerplant manufacturers, and labor organizations involved because of the accident circumstances. Everyone involved in an NTSB investigation, including the parties, depend on accurate information contained in NTSB Form 6120.1 while conducting the investigation and determining which areas warrant focus and attention. Overall, the NTSB considers Form 6120.1 to be critical to its statutory function of investigation accidents and incidents, and subsequently issuing safety recommendations in an effort to prevent future accidents and incidents.

The NTSB has carefully considered whether this collection of information on Form 6120.1 is duplicative of any other agency's collections of information. The NTSB is unaware of any form the FAA disseminates that solicits the same information Form 6120.1 requires. However, the NTSB notes some operators may choose to provide a voluntary report to the National Aeronautics and Space Administration (NASA) in accordance with the Aviation Safety Reporting Program (ASRP). NASA will not accept ASRP reports concerning aircraft *accidents;* however, it is possible that an operator could report an *incident* to the NTSB, as defined in 49 CFR 830.2, and contemporaneously submit an ASRP report to NASA.

The NTSB notes completion of NTSB Form 6120.1 is not voluntary, but is required by 49 CFR 830.15(a). The NTSB, in general, will not accept partially completed forms; NTSB investigators will exercise their discretion in requesting completion of a copy of Form 6120.1 a respondent submits that is partially completed.

Currently, the NTSB accepts paper copies of Form 6120.1 sent via postal mail or facsimile, as well as electronic copies of Form 6120.1 that respondents submit via electronic mail. For electronically submitted copies, the NTSB notes its public Web site contains a fill-able version of Form 6120.1. The NTSB has received comments from various respondents who have requested an automated version of the form be available on the NTSB Web site. The NTSB is currently working to make the form available in such a manner, and is committed to providing the simplest manner of submission for all respondents. The NTSB plans to release a web-based version of the form before the end of 2013.

The NTSB has carefully reviewed the form to ensure that it has used plain, coherent, and unambiguous terminology in its request for information. The NTSB estimates that respondents will spend approximately 60 minutes in completing the form. The NTSB estimates that approximately 1,800 respondents per year will complete the form, but notes that this number may vary, given the unpredictable nature of the frequency of aviation accidents and incidents.

Deborah A.P. Hersman,

Chairman.

[FR Doc. 2013–10776 Filed 5–6–13; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0071]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 25, ''Access Authorization.''

2. *Current OMB approval number:* 3150–0046.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* NRC-regulated facilities and other organizations requiring access to NRC-classified information.

5. *The number of annual respondents:* 78.

6. *The number of hours needed annually to complete the requirement or request:* 365 (318 hrs reporting + 47 hrs recordkeeping).

7. *Abstract:* NRC-regulated facilities and other organizations are required to provide information and maintain records to ensure that an adequate level of protection is provided to NRC-classified information and material.

Submit, by July 8, 2013, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC's home page site for 60 days after the signature date of this document. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly

disclosed. Comments submitted should reference Docket No. NRC–2013–0071. You may submit your comments by any of the following methods: Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2013–0071 and mail comments to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 1st day of May, 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–10743 Filed 5–6–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–286; NRC–2013–0063]

Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit No. 3 Extension of Public Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental assessment and finding of no significant impact; extension of public comment period.

SUMMARY: This document modifies a notice appearing in the **Federal Register** on April 3, 2013 (78 FR 20144), by extending the original public comment period from May 3, 2013, to June 3, 2013. This action was requested by concerned stakeholders who sought additional time to provide comments.

FOR FURTHER INFORMATION CONTACT: Douglas V. Pickett, Senior Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–1364, email: *Douglas.Pickett@nrc.gov.*

SUPPLEMENTARY INFORMATION: On page 20144, in the third column, in the paragraph entitled **DATES**, the closing of the public comment period was May 3, 2013. This date has been extended to June 3, 2013.

Dated in Rockville, Maryland, this 30th day of April 2013.

For the Nuclear Regulatory Commission.

Sean C. Meighan,

Acting Chief, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–10792 Filed 5–6–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–446; NRC–2010–0206]

Draft Supplement to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants; NextEra Energy Seabrook; Seabrook Station, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft supplemental generic environmental impact statement; supplement and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is publishing a supplement to the draft plant-specific Supplement 46 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS), NUREG–1437, regarding the renewal of operating license NPF–86 for an additional 20 years of operation for Seabrook Station, Unit 1 (Seabrook). The NRC will incorporate the contents of the supplement, and any comments received thereon, into the final plant-specific supplement to the GEIS for Seabrook. Seabrook is located 13 miles south of Portsmouth, New Hampshire. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

DATES: Submit comments by June 30, 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.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publically available, by searching on *http://www.regulations.gov* under Docket ID NRC–2010–0206. You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2010–0206. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

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

FOR FURTHER INFORMATION CONTACT: Ms. Lois James, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3306; email: *Lois.James@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2010–0206 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2010–0206.
- *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 supplement to the draft plant-specific Supplement 46 to the GEIS, NUREG–1437, can be found in ADAMS under Accession No. ML13113A174.
- *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.

In addition, a copy of the supplement to the draft plant-specific Supplement 46 to the GEIS is available to local residents near the site at the Seabrook Library located at 25 Liberty Street, Seabrook, NH 03874, and at the Amesbury Public Library located at 149 Main Street, Amesbury, MA 01913.

B. Submitting Comments

Please include Docket ID NRC–2010–0206 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 your 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.

II. Discussion

This supplement includes the NRC staff evaluation of revised information provided by NextEra pertaining to the severe accident mitigation alternatives (SAMA) analysis for Seabrook. In addition, this supplement updates the Uranium Fuel Cycle section in light of the June 8, 2012, U.S. Court of Appeals for the District of Columbia Circuit (*New York* v. *NRC,* 681 F.3d 471 (D.C. Cir. 2012)) decision to vacate the NRC's Waste Confidence Decision Rule (75 FR 81032, 75 FR 81037) and provides information on its analysis of new NEPA issues and associated environmental impact findings for license renewal. This supplement does not change the recommendation in Section 9.4 of the draft supplement issued in August 2011. In the August 2011 draft Supplement 46, the NRC's preliminary recommendation was that the adverse environmental impacts of license renewal for Seabrook Station, Unit 1, were not great enough to deny the option of license renewal for energy-planning decision makers.

Dated at Rockville, Maryland, this 26th day of April 2013.

For the Nuclear Regulatory Commission.

David J. Wrona,

Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–10790 Filed 5–6–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353; NRC–2011–0166]

Exelon Generation Company, LLC, License Renewal of Nuclear Plants and Public Meetings for the License Renewal of Limerick Generating Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental impact statement; comment request.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has published a draft plant-specific supplement 49 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS), NUREG–1437, regarding the renewal of operating licenses NPF–39 and NPF–85 for an additional 20 years of operation for Limerick Generating Station, Units 1 and 2 (LGS). LGS is located in Pottstown, Pennsylvania. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

DATES: Submit comments by June 27, 2013. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comment 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–2011–0166. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

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

All comments received by the NRC, including those made by Federal, State, and local agencies; Native American Tribes; or other interested persons, will be made available electronically at the NRC's public document room (PDR) in Rockville, Maryland, and through ADAMS. Comments received after the due date will be considered only if it is practical to do so.

The NRC staff will hold public meetings prior to the close of the public comment period to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. Two meetings will be held at the Sunnybrook Ballroom, 50 North Sunnybrook Road, Pottstown, PA 19464 on Thursday, May 23, 2013. The first session will convene at 2:00 p.m. and will continue until 4:00 p.m., as necessary. The second session will convene at 7:00 p.m. and will continue until 9:00 p.m., as necessary. The meetings will be transcribed and will include: (1) A presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing. Persons may pre-register to attend or present oral comments at the meeting by contacting Ms. Leslie Perkins, the NRC Environmental Project Manager, at 1–800–368–5642, extension 2375, or by email at *leslie.perkins@nrc.gov* no later than Friday, May 10, 2013. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Ms. Perkins' attention no later than Friday, May 10, 2013, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION CONTACT: Ms. Leslie Perkins, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2375 or email to *leslie.perkins@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2011–0166 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0166.

• *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 draft GEIS, NUREG–1437, Supplement 49, is available in ADAMS under Accession No. ML13120A078.

• *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.

In addition, a copy of the draft supplement to the GEIS is available to local residents near the site at the Pottstown Regional Public Library, 500 East High Street, Pottstown, PA 19464 and Royersford Free Public Library, 200 4th Avenue, Royerfords, PA 19468.

B. Submitting Comments

Please include Docket ID NRC–2011–0166 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 that you do not want to be publicly disclosed in your 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.

Dated at Rockville, Maryland, 30th this day of April, 2013.

For the Nuclear Regulatory Commission.

David J. Wrona,

Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–10788 Filed 5–6–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0001]

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of May 6, 13, 20, 27, June 3, 10, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of May 6, 2013

There are no meetings scheduled for the week of May 6, 2013.

Week of May 13, 2013—Tentative

There are no meetings scheduled for the week of May 13, 2013.

Week of May 20, 2013—Tentative

Monday, May 20, 2013

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting) (Contact: Kristin Davis, 301–287–0707).

This meeting will be webcast live at the web address—*www.nrc.gov.*

Week of May 27, 2013—Tentative

Wednesday, May 29, 2013

9:00 a.m. Briefing on Results of the Agency Action Review Meeting (AARM) (Public Meeting) (Contact: Rani Franovich, 301–415–1868)

This meeting will be webcast live at the web address—*www.nrc.gov.*

Week of June 3, 2013—Tentative

There are no meetings scheduled for the week of June 3, 2013.

Week of June 10, 2013—Tentative

There are no meetings scheduled for the week of June 10, 2013.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: May 2, 2013.

Kenneth R. Hart,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2013–10904 Filed 5–3–13; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: CyberCorps®: Scholarship For Service (SFS) Registration Web Site

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Human Resources Solutions, Office of Personnel Management (OPM) offers the general

public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0246, SFS Registration. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until July 8, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to U.S. Office of Personnel Management, Mid-Atlantic Services Branch, 200 Granby Street, Suite 500, Norfolk, VA 23510–1886, Attention: Kathy Roberson or sent via electronic mail to *sfs@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Mid-Atlantic Services Branch, 200 Granby Street, Suite 500, Norfolk, VA 23510–1886, Attention: Kathy Roberson or sent via electronic mail to *sfs@opm.gov.*

SUPPLEMENTARY INFORMATION: The SFS Program was established by the National Science Foundation in accordance with the Federal Cyber Service Training and Education Initiative as described in the President's *National Plan for Information Systems Protection.* This program seeks to increase the number of qualified students entering the fields of information assurance and computer security in an effort to respond to the threat to the Federal Government's information technology infrastructure. The program provides selected 4-year colleges and universities scholarship grants to attract students to the information assurance field. Participating students who receive scholarships from this program are required to serve a 10-week internship during their studies and complete a post-graduation employment commitment equivalent to the length of the scholarship or one year, whichever is longer. Approval of the Web page is necessary to facilitate the timely registration, selection and placement of program-enrolled students in Government agencies.

Analysis

Agency: CyberCorps®: Scholarship For Service Program, Office of Personnel Management.

Title: Scholarship For Service (SFS) Program Internet Site.

OMB Number: 3260–0246.

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 630.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 630 hours.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–10717 Filed 5–6–13; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to specific agencies that were established or revoked from February 1, 2013, to February 28, 2013.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Service and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR) in accordance with 5 CFR 213.103. However, as Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/.* OPM also publishes annually a consolidated listing of all Schedule A, B, and C appointing authorities current as of June 30 as a notice in the **Federal Register**.

Schedule A

No schedule A authorities to report during February 2013.

Schedule B

No schedule B authorities to report during February 2013.

Schedule C

The following Schedule C appointing authorities were approved during February 2013.

Agency name	Organization name	Position title	Authorization No.	Effective date
Department of Commerce	Office of White House Liaison	Deputy Director, Office of White House Liaison.	DC130024	2/19/2013
	Office of White House Liaison	Special Advisor	DC130025	2/19/2013
Department of Defense	Office of the Assistant Secretary of Defense (Global Strategic Affairs).	Special Assistant for Global Strategic Affairs.	DD130032	2/7/2013
	Office of the Assistant Secretary of Defense (International Security Affairs).	Special Assistant for Middle East Affairs.	DD130034	2/8/2013
	Office of Principal Deputy Under Secretary for Policy.	Special Assistant for Strategy, Plans and Forces.	DD130041	2/13/2013
	Office of the Secretary	Special Assistant for Protocol	DD130037	2/15/2013

Agency name	Organization name	Position title	Authorization No.	Effective date
	Washington Headquarters Services.	Staff Assistant	DD130042	2/15/2013
Department of Education	Office of the Deputy Secretary	Confidential Assistant	DB130015	2/8/2013
	Office of the Under Secretary	Executive Director, White House Initiative for Employment of African Americans.	DB130018	2/22/2013
	Office of Elementary and Secondary Education.	Special Assistant	DB130010	2/27/2013
	Office of Postsecondary Education	Special Assistant	DB130019	2/27/2013
	Office of Legislation and Congressional Affairs.	Confidential Assistant	DB130020	2/27/2013
Department of Health and Human Services.	Office of the Assistant Secretary for Public Affairs.	Senior Advisor for Strategic Planning.	DH130038	2/15/2013
		Senior Speechwriter	DH130040	2/15/2013
	Office of Intergovernmental and External Affairs.	Regional Director, Kansas City, Missouri, Region VII.	DH130041	2/19/2013
Department of Homeland Security	U.S. Citizenship and Immigration Services.	Special Assistant	DM130041	2/15/2013
	Office of the Under Secretary for Science and Technology.	Senior Liaison Officer	DM130043	2/22/2013
Department of Housing and Urban Development.	Office of the Secretary	Senior Advisor for Housing and Services.	DU130007	2/20/2013
Department of the Interior	Secretary's Immediate Office	Special Assistant for Advance	DI130010	2/22/2013
Department of Justice	Office of the Deputy Attorney General.	Counsel	DJ130034	2/22/2013
	Executive Office for United States Attorneys.	Counsel	DJ130035	2/27/2013
Department of Labor	Office of the Secretary	Chief Economist	DL130010	2/8/2013
Securities and Exchange Commission.	Office of the Chairman	Confidential Assistant	SE130003	2/20/2013
		Confidential Assistant	SE130004	2/20/2013
Small Business Administration	Office of Capital Access	Special Advisor for Capital Access	SB130005	2/15/2013
Department of Transportation	Assistant Secretary for Governmental Affairs.	Associate Director for Governmental Affairs.	DT130011	2/27/2013
	Secretary	Director of Scheduling and Advance.	DT130012	2/27/2013
Department of the Treasury	Secretary of the Treasury	Senior Advisor	DY130021	2/22/2013

The following Schedule C appointing authorities were revoked during February 2013.

Agency	Organization	Position title	Authorization No.	Vacate date
Department of Commerce	Office of White House Liaison	Deputy Director, Office of White House Liaison.	DC120126	2/19/2013
	International Trade Administration	Director, Office of Strategic Partnerships.	DC110073	2/22/2013
Department of Education	Office of The Deputy Secretary	Confidential Assistant	DB110116	2/22/2013
Department of Homeland Security	Office of the Assistant Secretary for Policy.	Chief of Staff	DM110253	2/7/2013
	Office of the Under Secretary for National Protection and Programs Directorate.	Special Advisor	DM110208	2/8/2013
	Office of the General Counsel	Special Assistant to the General Counsel and Attorney Advisor.	DM110028	2/9/2013
	U.S. Citizenship and Immigration Services.	Special Assistant	DM110272	2/23/2013
Department of Justice	Office of Justice Programs	Special Assistant	DJ110010	2/9/2013
Department of Labor	Office of the Secretary	Lead Scheduler	DL110019	2/24/2013
Department of State	Office of the Secretary	Special Assistant	DS090154	2/8/2013
	Bureau of Public Affairs	Senior Advisor	DS090141	2/8/2013
	Bureau of East Asian and Pacific Affairs.	Special Assistant	DS100027	2/8/2013
	Office of the Chief of Protocol	Senior Advisor	DS090288	2/9/2013
	Bureau of Western Hemisphere Affairs.	Public Affairs Specialist	DS100137	2/9/2013
	Foreign Policy Planning Staff	Special Assistant/Speechwriter	DS090231	2/11/2013
	Bureau of Information Resources Management.	Internet Specialist and Policy and Planning.	DS090165	2/15/2013

Agency	Organization	Position title	Authorization No.	Vacate date
	Office of the Chief of Protocol	Supervisory Protocol of Officer—Visits.	DS090229	2/15/2013
	Office of the Secretary	Staff Assistant	DS090227	2/15/2013
	Bureau of Public Affairs	Special Assistant	DS090190	2/16/2013
	Office of the Secretary	Staff Assistant	DS090145	2/22/2013
	Foreign Policy Planning Staff	Staff Assistant	DS090212	2/22/2013
	Bureau of Public Affairs	Staff Assistant	DS100007	2/22/2013
	Bureau of Energy Resources	Staff Assistant	DS090315	2/22/2013
	Office of the Secretary	Senior Advisor for Intergovernmental Affairs.	DS100057	2/22/2013
	Foreign Policy Planning Staff	Staff Assistant	DS090202	2/23/2013
Department of the Interior	Office of Congressional and Legislative Affairs.	Deputy Director, Congressional and Legislative Affairs.	DI100031	2/23/2013
Department of Transportation	Assistant Secretary for Governmental Affairs.	Associate Director for Governmental Affairs.	DT100024	2/8/2013
	Administrator	Director of Communications	DT110028	2/8/2013
	Assistant Secretary for Transportation Policy.	Deputy Director for Public Engagement.	DT120025	2/19/2013
Export-Import Bank	Board of Directors	Executive Vice President and Chief Operating Officer.	EB090004	2/1/2013
Office of the Secretary of Defense	Office of Assistant Secretary of Defense (Public Affairs).	Speechwriter	DD110134	2/15/2013
	Office of the Secretary	Special Assistant to the Secretary of Defense for Protocol.	DD110124	2/16/2013
	Washington Headquarters Services.	Staff Assistant	DD100183	2/23/2013
	Office of the Assistant Secretary of Defense (Global Strategic Affairs).	Special Assistant to the Assistant Secretary of Defense.	DD120005	2/23/2013
	Office of the Under Secretary of Defense (Policy).	Special Assistant to the Assistant Secretary of Defense (Homeland Defense and America's Security Affairs).	DD120022	2/23/2013

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–10722 Filed 5–6–13; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a credit ratings roundtable discussion on Tuesday, May 14, 2013, in the Auditorium, Room, L–002, beginning at 9:00 a.m. Doors will open at 8:30 a.m. and seating will be available on a first-come, first-served basis. Visitors will be subject to security checks. The roundtable will be webcast on the Commission's Web site at *www.sec.gov* and will be archived for later viewing.

On April 23, 2013, the Commission published notice of the roundtable discussion (Release No. 34–69433), indicating that the event is open to the public and inviting the public to submit written comments to the Commission. This Sunshine Act notice is being issued because a majority of the Commission may attend the roundtable discussion. The agenda for the roundtable includes opening remarks followed by three panel discussions. The first panel will examine issues in connection with the possibility of developing a credit rating assignment system. The second panel will discuss the effectiveness of the Commission's current system under the Securities Exchange Act of 1934 for encouraging unsolicited ratings of asset-backed securities. The third panel will focus on other potential alternatives to the current issuer pay business model.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 3, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–10936 Filed 5–3–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69481; File No. SR–EDGA–2013–11]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

April 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 23, 2013, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] and non-Members of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members and non-Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In SR–EDGA–2010–06,[4] the Exchange adopted an annual fee per physical port utilized by Members and non-Members to connect to the Exchange's System [5] for order entry and the receipt of Exchange data, among other reasons. A physical port is a port used by a Member or non-Member to connect into the Exchange at the data centers where Exchange servers are located. Physical port connections can occur either through an external telecommunication circuit or a cross-connection. The Exchange noted at the time of filing that other market centers provided similar services.[6] In SR–EDGA–2013–03,[7] the Exchange amended its fee schedule, effective February 1, 2013, to eliminate the option for Members and non-Members to pay for physical ports on an annual basis.

The Exchange currently assesses the following physical port fees for Members and non-Members on a monthly basis: $500 per physical port that connects to the System via a 1 gigabyte Copper circuit; $750 per physical port that connects to the System via a 1 gigabyte Fiber circuit; and $1,000 per physical port that connects to the System via a 10 gigabyte Fiber circuit.

The Exchange proposes to amend its fee schedule to account for increased infrastructure costs associated with providing physical ports. As such, the Exchange proposes to amend its fee schedule, effective May 1, 2013, to assess the following physical port fees for Members and non-Members: (i) Increase the monthly fee per physical port that connects to the System via a 1 gigabyte Fiber circuit from $750 to $1,000; (ii) increase the monthly fee per 10 gigabyte Fiber circuit from $1,000 to $2,000. The Exchange notes that the fee charged per 1 gigabyte Copper circuit will remain unchanged.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposal represents an equitable allocation of reasonable dues, fees, and other charges as its billing for port fees is reasonably constrained by competitive alternatives.[10] If a particular exchange charges excessive fees for connectivity, affected Members and non-Members will opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, if the Exchange charges excessive fees, it would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

Furthermore, the proposed rule change is also an equitable allocation of reasonable dues, fees, and other charges as the Exchange believes that the increased fees obtained will enable it to cover its increased infrastructure costs associated with establishing physical ports to connect to the Exchange's systems at the Exchange's primary and secondary data centers. The additional revenue from the increased fees will also enable the Exchange to continue to maintain and improve its market technology and services. The Exchange believes that the proposed fees for 1 gigabyte Fiber circuit of $1,000 per month and for 10 gigabyte Fiber circuit of $2,000 per month are reasonable in that they are in the same range as analogous fees charged by other exchanges, which are $1000 per month for 1 gigabyte connectivity and range from $2,500–$5,000 per month for 10 gigabyte circuits.[11]

Finally, the Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members and non-Members. Members and non-Members will continue to choose whether they want more than one physical port and choose the method of connectivity based on their specific needs.

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. As discussed above, the Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including port fee access, would serve to impair an exchange's ability to compete for order flow rather than burdening competition. The proposal to increase the fees for physical connectivity would bring the fees charged by the Exchange closer to similar fees charged for physical connectivity by other exchanges.[12]

[3] As defined in Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 62436 (July 1, 2010), 75 FR 39600 (July 9, 2010) (SR–EDGA–2010–06).

[5] As defined in Exchange Rule 1.5(cc).

[6] *See* Securities Exchange Act Release No. 62436 (July 1, 2010), 75 FR 39600 (July 9, 2010) (SR–EDGA–2010–06) (citing Securities Exchange Act Release No. 61545 (February 19, 2010), 75 FR 8769 (February 25, 2010) (SR–BATS–2009–032) and Securities Exchange Act Release No. 62392 (June 28, 2010), 75 FR 38857 (July 6, 2010) (SR–NASDAQ–2010–077)).

[7] *See* Securities Exchange Act Release No. 68830 (February 5, 2013), 78 FR 9749 (February 11, 2013) (SR–EDGA–2013–03).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] *See* Securities Exchange Act Release No. 69226 (March 25, 2013), 78 FR 19350 (March 29, 2013) (SR–BATS–2013–018). *See, e.g.,* Nasdaq Rule 7034(b); BATS BZX & BYX Exchange Fee Schedules, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[11] *See, e.g.,* Nasdaq Rule 7034(b); BATS BZX & BYX Exchange Fee Schedules, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[12] *Id.*

In addition, the proposed rule change does not impose any burden on intramarket competition as the fees are uniform for all Members and non-Members. The Exchange notes that Members and non-Members also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(2) [14] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2013–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2013–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2013–11 and should be submitted on or before May 28, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10703 Filed 5–6–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69482; File No. SR–EDGX–2013–14]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

April 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 23, 2013, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] and non-Members of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members and non-Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com*, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In SR–EDGX–2010–06,[4] the Exchange adopted an annual fee per physical port utilized by Members and non-Members to connect to the Exchange's System [5] for order entry and the receipt of Exchange data, among other reasons. A physical port is a port used by a Member or non-Member to connect into the Exchange at the data centers where Exchange servers are located. Physical port connections can occur either through an external telecommunication circuit or a cross-connection. The Exchange noted at the time of filing that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined in Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599 (July 9, 2010) (SR–EDGX–2010–06).

[5] As defined in Exchange Rule 1.5(cc).

other market centers provided similar services.[6] In SR–EDGX–2013–03,[7] the Exchange amended its fee schedule, effective February 1, 2013, to eliminate the option for Members and non-Members to pay for physical ports on an annual basis.

The Exchange currently assesses the following physical port fees for Members and non-Members on a monthly basis: $500 per physical port that connects to the System via a 1 gigabyte Copper circuit; $750 per physical port that connects to the System via a 1 gigabyte Fiber circuit; and $1,000 per physical port that connects to the System via a 10 gigabyte Fiber circuit.

The Exchange proposes to amend its fee schedule to account for increased infrastructure costs associated with providing physical ports. As such, the Exchange proposes to amend its fee schedule, effective May 1, 2013, to assess the following physical port fees for Members and non-Members: (i) Increase the monthly fee per physical port that connects to the System via a 1 gigabyte Fiber circuit from $750 to $1,000; (ii) increase the monthly fee per 10 gigabyte Fiber circuit from $1,000 to $2,000. The Exchange notes that the fee charged per 1 gigabyte Copper circuit will remain unchanged.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposal represents an equitable allocation of reasonable dues, fees, and other charges as its billing for port fees is reasonably constrained by competitive alternatives.[10] If a particular exchange charges excessive fees for connectivity, affected Members and non-Members will opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, if the Exchange charges excessive fees, it would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

Furthermore, the proposed rule change is also an equitable allocation of reasonable dues, fees, and other charges as the Exchange believes that the increased fees obtained will enable it to cover its increased infrastructure costs associated with establishing physical ports to connect to the Exchange's systems at the Exchange's primary and secondary data centers. The additional revenue from the increased fees will also enable the Exchange to continue to maintain and improve its market technology and services. The Exchange believes that the proposed fees for 1 gigabyte Fiber circuit of $1,000 per month and for 10 gigabyte Fiber circuit of $2,000 per month are reasonable in that they are in the same range as analogous fees charged by other exchanges, which are $1000 per month for 1 gigabyte connectivity and range from $2,500–$5,000 per month for 10 gigabyte circuits.[11]

Finally, the Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members and non-Members. Members and non-Members will continue to choose whether they want more than one physical port and choose the method of connectivity based on their specific needs.

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. As discussed above, the Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including port fee access, would serve to impair an exchange's ability to compete for order flow rather than burdening competition. The proposal to increase the fees for physical connectivity would bring the fees charged by the Exchange closer to similar fees charged for physical connectivity by other exchanges.[12]

In addition, the proposed rule change does not impose any burden on intramarket competition as the fees are uniform for all Members and non-Members. The Exchange notes that Members and non-Members also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(2)[14] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File

[6] *See* Securities Exchange Act Release No. 62437 (July 1, 2010), 75 FR 39599 (July 9, 2010) (SR–EDGX–2010–06) (citing Securities Exchange Act Release No. 61545 (February 19, 2010), 75 FR 8769 (February 25, 2010) (SR–BATS–2009–032) and Securities Exchange Act Release No. 62392 (June 28, 2010), 75 FR 38857 (July 6, 2010) (SR–NASDAQ–2010–077)).

[7] *See* Securities Exchange Act Release No. 68831 (February 5, 2013), 78 FR 9763 (February 11, 2013) (SR–EDGX–2013–03).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] *See* Securities Exchange Act Release No. 69226 (March 25, 2013), 78 FR 19350 (March 29, 2013) (SR–BATS–2013–018). *See, e.g.,* Nasdaq Rule 7034(b); BATS BZX & BYX Exchange Fee Schedules,*http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[11] *See, e.g.,* Nasdaq Rule 7034(b); BATS BZX & BYX Exchange Fee Schedules, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[12] *Id.*

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

Number SR–EDGX–2013–14 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–EDGX–2013–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2013–14 and should be submitted on or before May 28, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10704 Filed 5–6–13; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69496; File No. SR–CBOE–2013–044]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fingerprint-Based Background Checks of Exchange Directors, Officers, Employees and Others

May 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2013, Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') proposes to adopt a rule codifying CBOE's current practice of conducting fingerprint checks of directors, officers, employees, temporary personnel, independent contractors, consultants, vendors and service providers of the Exchange. Under the proposed rule, CBOE would conduct these fingerprint checks by submitting the fingerprints taken to the Attorney General of the United States or his or her designee for identification and processing. In conducting these fingerprint checks, CBOE would receive criminal history record information from the Attorney General of the United States or his or her designee for evaluation and use, in accordance with applicable law, in enhancing the security of the Exchange's facilities, systems, data, and/or records (collectively, ''facilities and records'').

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a rule that would codify the Exchange's current practice of conducting fingerprint-based criminal records checks of (i) directors, officers and employees of the Exchange, and (ii) temporary personnel, independent contractors, consultants, vendors and service providers (collectively, ''contractors'') who have or are anticipated to have access to facilities and records. A number of securities markets have filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') rules to obtain fingerprints from certain enumerated parties.[3] The rule proposed by CBOE in this proposed rule change is consistent with these rules.

Access to the Federal Bureau of Investigation's (''FBI'') database of fingerprint based criminal records is permitted only when authorized by law. Numerous federal and state laws authorize employers to conduct fingerprint-based background checks that make use of the FBI's database. Notably, Section 17(f)(2) of the Securities Exchange Act of 1934, as amended (''Act''), and SEC Rule 17f–2 require partners, directors, officers and employees of members of national securities exchanges, brokers, dealers, transfer agents, and clearing agencies to be fingerprinted and authorize SROs to maintain facilities for processing and storing fingerprint cards and criminal

[3] *See* Rule 1408 of the International Securities Exchange (''ISE''), Rule 28 of the New York Stock Exchange (''NYSE''), Rule 0140 of the Nasdaq Stock Market, Inc. (''Nasdaq'') and Securities Exchange Act Release No. 50157 (August 5, 2004), 69 FR 49924 (August 12, 2004) (policy adopted by the National Association of Securities Dealers, Inc. (''NASD'') (now FINRA) to conduct fingerprint-based background checks of NASD employees and independent contractors).

record information received from the FBI database with respect to such cards. Section 17(f)(2) explicitly directs the Attorney General of the United States (*i.e.,* the FBI) to provide SROs designated by the Commission with access to criminal history record information. Section 17(f)(2) was amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'') to also require partners, directors, officers and employees of registered securities information processors, national securities exchanges and national securities associations to be fingerprinted.[4] The Exchange believes, therefore, that a proposed rule change for a fingerprinting program for directors, officers, employees and contractors is a necessary component of the Exchange's business plan.

CBOE believes that fingerprint-based background checks of Exchange directors, officers, employees and contractors will promote the objectives of investor protection, business continuity and workplace safety and its other responsibilities under the Act by providing CBOE with an effective tool for identifying and excluding persons with felony or misdemeanor conviction records that may pose a threat to the safety of Exchange personnel or the security of facilities and records. The proposed rule would permit CBOE to conduct fingerprint-based background checks of all Exchange directors, officers, employees and contractors. All Exchange directors, officers, employees and contractors would be subject to fingerprinting at any time. Fingerprint-based background checks of contractors would be performed prior to providing a contractor with access to facilities and records. The Exchange would also conduct fingerprint-based background checks of Exchange director candidates that are not already serving on the Exchange's Board before they are formally nominated and of employee candidates after an offer of employment has been made by the Exchange.

Any employee who refuses to submit to fingerprinting would be subject to progressive discipline up to and including the termination of employment. Any person who is given an offer of employment with the Exchange who refuses to submit to fingerprinting would have the offer withdrawn. A contractor who refuses to submit to fingerprinting would be denied access to facilities and records. The Exchange may choose to not obtain fingerprints from, or to seek fingerprint-based information with respect to, any contractor due to that contractor's limited, supervised, or restricted access to facilities and records, or the nature or location of his or her work or services, or if the contractor's employer conducts fingerprint based criminal records checks of its personnel.

Through access to state-of-the-art information systems administered and maintained by the FBI and its Criminal Justice Information Services Division, CBOE would receive centrally-maintained ''criminal history record information,'' which is arrest-based data and derivative information, and may include personal descriptive data; FBI number; conviction status; sentencing, probation and parole information; and such other information as the FBI may now or hereafter make available to CBOE. This information is supplied to the FBI by various local, state, federal and/or international criminal justice agencies. Thus, the information obtained through fingerprint-based background checks provides a profile of a candidate's criminal record and facilitates risk assessment with respect to the candidate.

Access to the FBI's nationwide database is particularly crucial with respect to the screening of contractors, who are not employees of the Exchange and who therefore are not subject to the pre-hire review that the Exchange conducts with respect to employees but whose work frequently requires the same or similar access to facilities and records as that provided to employees of the Exchange. In furtherance of its commitment to utilize and improve technology and systems applications to better serve investors, disseminate market information, and ensure reliable order handling and execution for all market participants, CBOE regularly retains outside vendors whose specialized expertise is required for the development, installation and servicing of this technology. Such vendors complement the work of CBOE systems staff in providing the investment community with an efficient and technologically advanced marketplace. Examples of persons from whom fingerprints may be obtained under the proposed rule change include the following (the plan does not include the fingerprinting of SEC staff), all of whom are anticipated to need CBOE-issued photo badges or other identification permitting them access to facilities and records for more than one day: personnel providing temporary services to CBOE but who are employed and provided by a staffing service and non-employee technicians whose work with CBOE software and equipment, although temporary, necessitates broad access to CBOE facilities.

The proposed access to criminal history information is consistent with federal law. Section 17(f)(2) of the Act and Rule 17f–2 thereunder require, subject to certain exemptions, a variety of securities industry personnel to be fingerprinted, including partners, directors, officers and employees of every member of a national securities exchange, brokers, dealers, transfer agents, and clearing agencies. As noted above, Section 17(f)(2) was amended by the Dodd-Frank Act to also require partners, directors, officers and employees of registered securities information processors, national securities exchanges and national securities associations to be fingerprinted. Although Section 17(f)(2) does not require CBOE or other SROs to fingerprint contractors, the statute specifically permits SROs designated by the SEC to have access to ''all criminal history record information.''

The proposed access to criminal history information is consistent with rules of other SROs[5] and is also consistent with New York's General Business Law, which, among other things, requires SROs in New York to fingerprint their employees and those non-employee service providers whose access to facilities or records places the self-regulatory organization at risk.

CBOE will comply with all applicable laws relating to the use and dissemination of criminal history record information obtained from the FBI.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes fingerprint-based background checks of Exchange directors, officers, employees and contractors is consistent with the

[4] *See* Section 929S of the Dodd-Frank Act.

[5] *Supra* Footnote 3.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

foregoing requirements of Section 6(b)(5) in that they would help CBOE identify and exclude persons with felony or misdemeanor conviction records that may pose a threat to the safety of Exchange personnel or the security of facilities and records, thereby enhancing business continuity, workplace safety and the security of the Exchange's operations and helping to protect investors and the public interest. The proposed rule is substantially similar to fingerprinting rules of other SROs and would conform the Exchange's fingerprinting practices with recent amendments to Section 17(f)(2) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would enhance the security of the Exchange's facilities and records without adding any burden on market participants. The proposed rule change would conform the Exchange's fingerprinting rules with Section 17(f)(2) of the Act as amended by the Dodd-Frank Act. As discussed below, the Exchange notes the proposed rule change is based on fingerprinting rules of other SROs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because it will conform CBOE's fingerprinting practices with Section 17(f)(2) of the Act, as amended by the Dodd-Frank Act, which requires national securities exchanges, among other entities, to fingerprint their officers, directors, and employees, and to submit such fingerprints to the Attorney General of the United States for identification and processing. For this reason, the Commission designates the proposed rule change to be operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CBOE–2013–044 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 No. SR–CBOE–2013–044. 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 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 No. SR–CBOE–2013–044 and should be submitted on or before May 28, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10799 Filed 5–6–13; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69487; File No. SR–NYSEARCA–2013–46]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule To Raise the Take Liquidity Fee for Firm and Broker Dealer Electronic Executions in Penny Pilot Issues

May 1, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 30, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') to raise the Take Liquidity fee for Firm and Broker Dealer electronic executions in Penny Pilot Issues. The Exchange proposes to make the fee change operative on May 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to raise the Take Liquidity fee for Firm and Broker Dealer electronic executions in Penny Pilot Issues.[4] The Exchange proposes to make the fee change operative on May 1, 2013.

Currently, the Exchange charges a Take Liquidity fee of $0.47 per contract for Firm and Broker Dealer, Lead Market Maker (''LMM''), and Market Maker electronic executions in Penny Pilot Issues. The Exchange proposes to raise the Take Liquidity fee to $0.48 per contract for Firm and Broker Dealer electronic executions in Penny Pilot Issues. The Exchange is increasing the Take Liquidity fee for Firm and Broker Dealer electronic executions in Penny Pilot Issues to keep the fee in the same range as other exchanges [5] and generate revenue that will help support credits offered to market participants that post liquidity. The Exchange does not propose to make any other changes to the fees for electronic executions in Penny Pilot Issues. Take Liquidity fees will remain at $0.47 for LMMs and Market Makers and $0.45 for Customers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that raising the Take Liquidity fee from $0.47 per contract to $0.48 per contract for Firm and Broker Dealer electronic executions in Penny Pilot Issues will result in the Exchange's fees for taking liquidity in Penny Pilot issues remaining comparable to fees charged by at least one other exchange.[8] In addition, the proposed fee change is reasonable because it will generate revenue that will help to support the credits offered to market participants that post liquidity, which should benefit all market participants by increasing the opportunity for order interaction.

The Exchange believes that the proposed fee increase, which would apply only to Firms and Broker Dealers, is equitable and not unfairly discriminatory. The Exchange notes that Customer order flow benefits the market by increasing liquidity, which benefits all market participants. LMMs and Market Makers have obligations to quote and commit capital, both of which contribute to market quality and price discovery on the Exchange. Firms and Broker Dealers do not have such obligations. As such, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to charge Firms and Broker Dealers a slightly higher rate for taking liquidity in Penny Pilot issues than Customers, LMMs, and Market Makers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed fee will allow the Exchange to remain competitive with other exchanges by keeping its fees in a similar range.[9] The Exchange believes that the proposed fee change reduces the burden on competition because it takes into account the value that various market participants add to the marketplace, as discussed above. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change promotes a competitive environment.

[4] As provided under NYSE Arca Options Rule 6.72, options on certain issues have been approved to trade with a minimum price variation of $0.01 as part of a pilot program that is currently scheduled to expire on June 30, 2013. *See* Securities Exchange Act Release No. 69106, (March 11, 2013) 78 FR 16552 (March 15, 2013) (SR–NYSEArca–2013–22).

[5] For example, NASDAQ Options Market (''NOM'') charges Firms, Professionals, and Non-NOM Market Makers $0.48 per contract for removing liquidity in Penny Pilot Options while Customers are charged $0.45 per contract and NOM Market Makers are charged $0.47 per contract. *See* NASDAQ Options Rules Chapter XV, Section 2, and Securities Exchange Act Release No. 69321, (April 5, 2013) 78 FR 21691 (April 11, 2013) (SR–NASDAQ–2013–062).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] *See supra* n.5.

[9] *See id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2013–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2013–46. 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 publicly available. All submissions should refer to File Number SR–NYSEARCA–2013–46 and should be submitted on or before May 28, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10740 Filed 5–6–13; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69488; File No. SR–NYSEMKT–2013–38]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Options Fee Schedule for Firms To Increase the Transaction Fee for Certain Proprietary Electronic Executions and To Introduce Volume-Based Tiers for Certain Proprietary Electronic Executions

May 1, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 19, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for Firms to (1) increase the transaction fee for certain proprietary electronic executions of standard option contracts and (2) introduce volume-based tiers for certain proprietary electronic executions of standard option contracts that will be charged a lower per contract rate. The proposed change will be operative on May 1, 2013.

Specifically, the Exchange proposes to increase the per contract transaction fee for proprietary electronically executed orders for Firms from $.20 to $.25 per contract. The Exchange notes that the proposed fee is within the range of Firm fees presently assessed in the industry, which range from $.17 per contract for high volume (over 500,000 contracts per month) Firms in Multiply Listed, non-Select Symbols on NASDAQ OMX

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

PHLX (''PHLX'')[4] to $.89 per contract to take liquidity on The NASDAQ Options Market (''NOM'') for non-Penny Pilot securities.[5]

At the same time, the Exchange proposes to establish volume-based tiers for Firms that trade electronically on the Exchange. Upon achieving a higher volume tier, a Firm will automatically become eligible for a lower per contract rate on all of its electronic executions in that month. The proposed volume-based tiers will be based on a percentage of the Total Industry Customer equity and exchange-traded fund (''ETF'') option average daily volume (''ADV'').[6] By doing so, the tiers will float with the level of overall activity in the marketplace. The tiers will be as follows:

Tiers for firm proprietary electronic transactions	Rate per contract (retroactive to the first contract traded during the month)
Less than .21% of Total Industry Customer equity and ETF option ADV	$.25
.21% to .32% of Total Industry Customer equity and ETF option ADV	.20
Greater than .32% of Total Industry Customer equity and ETF option ADV	.17

Based on the past few months of activity, .32% of Total Industry Customer equity and ETF option ADV would be approximately 38,750 contracts per day (or 813,750 contracts per month) and .21% would be approximately 25,500 contracts per day (or 536,550 contracts per month), in each case assuming 21 trading days per month.

By way of comparison, the Exchange notes that the discounted fee for Firm electronic volume on PHLX is available if a Firm executes more than 500,000 contracts per month (which would be an average of 23,810 contracts per day if measured daily, assuming 21 trading days per month). The PHLX fee is $.45 if the Firm executes 500,000 or fewer contracts or $.17 if the Firm executes more than 500,000 contracts. While the highest volume tier that the Exchange is proposing is higher than the one on PHLX, the Exchange notes that the base rate on PHLX is substantially higher at $.45 per contract[7] as compared to the Exchange's base rate of $.25 per contract.

In calculating the amount of Firm electronic volume that is counted in the volume tier necessary to achieve the lower per contract rate, the Exchange will exclude qualified contingent cross (''QCC'') volume because QCC volumes are already eligible for a separate rebate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[8] of the Act, in general, and Section 6(b)(4) and (5)[9] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fees are reasonable because they are within the range of similar fees on other exchanges.[10] They also are reasonable because they are designed to attract higher volumes of Firm proprietary electronic equity and ETF volume to the Exchange, which will benefit all participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. Encouraging Firms to send higher volumes of orders to the Exchange will contribute to the Exchange's depth of book as well as to the top of book liquidity. The Exchange also believes that proposed thresholds for the tiers for the lower rates are reasonable because they are comparable to at least one other exchange (PHLX) and will reward Firms with lower fees when they bring a larger number of equity and ETF orders to the Exchange. The proposed fee increase for lower volume Firms is reasonable and equitable because it will reasonably ensure that the Exchange will derive sufficient revenue to continue to fund the fee reductions at the higher volumes for the benefit of all participants. Moreover, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all Firms that execute proprietary electronic equity and ETF orders on the Exchange on an equal and non-discriminatory basis.

The Exchange believes that excluding the volumes attributable to QCC executions is reasonable, equitable, and not unfairly discriminatory. QCC volumes are already counted toward a separate rebate that the Exchange pays to Floor Brokers who transact QCC trades.[11] If the Exchange were to count QCC volumes toward Firm electronic volumes for discounted rates, the Exchange would have to raise fees for all other participants. The Exchange does not believe such a result would be reasonable or equitable. Because all Firms will be treated equally with respect to QCC volume, the proposal to exclude this volume from the tiers is not inequitable or unfairly discriminatory.

The Exchange further notes that non-Firm market participants pay substantially more for the ability to trade on the Exchange, and as such, the proposed amount of the increase for Firms that contribute relatively lower levels of volume is reasonable. For example, Market Makers have much higher fixed monthly costs as compared to Firms. A Market Maker seeking to stream quotes in the entire universe of names traded on the Exchange must pay $26,000 per month in Amex Trading Permit (''ATP'') fees. In addition, a Market Maker acting as a Specialist, e-Specialist, or Directed Order Market Maker incurs monthly Rights Fees that range from $75 per option to $1,500 per option along with Premium Product Fees that can be as high as $7,000 per month. Firms pay only $1,000 per month in ATP fees and for that low monthly cost are able to send orders in all issues traded on the Exchange. Other participants have a much higher per contract cost to trade on the Exchange, such as Non-NYSE Amex Options Market Makers, who pay $.43 per contract to transact on the Exchange electronically.

Firms also are free to change the manner in which they access the Exchange. Firms may apply to become Market Makers to transact on a proprietary basis as Market Makers. In light of the ability to access the Exchange in a variety of ways, each of which is priced differently, Firms and

[4] *See* PHLX Fee Schedule, *available at http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing.*

[5] *See* NOM Fee Schedule, *available at http://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing.*

[6] Total Industry Customer equity and ETF option ADV will be that which is reported for the month by The Options Clearing Corporation (''OCC'') in the month in which the discounted rate may apply. For example, May 2013 Total Industry Customer equity and ETF option ADV will be used in determining what, if any, discount a Firm may be eligible for on its electronic Firm transactions based on the amount of electronic Firm volume it executes in May 2013 relative to Total Industry Customer equity and ETF option ADV. Total Industry Customer equity and ETF option ADV comprises those equity and ETF contracts that clear in the customer account type at OCC and does not include contracts that clear in either the firm or market maker account type at OCC or contracts overlying a security other than an equity or ETF security.

[7] *See supra,* notes 4–5.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See supra,* notes 4–5.

[11] *See* Securities Exchange Act Release No. 65472 (Oct. 3, 2011), 76 FR 62887 (Oct. 11, 2011) (SR–NYSEAmex–2011–72).

other participants may access the Exchange in a manner that makes the most economic sense for them.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change will encourage Firms to send higher volumes of order flow to the Exchange to qualify for the lower transaction fees. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [12] of the Act and subparagraph (f)(2) of Rule 19b–4 [13] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–38. 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 publicly available. All submissions should refer to File Number SR–NYSEMKT–2013–38 and should be submitted on or before May 28, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10741 Filed 5–6–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69489; File No. SR–NYSEMKT–2013–39]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Amex Options Fee Schedule To Modify the Existing Floor Broker Rebate for Executed Qualified Contingent Cross Orders

May 1, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 19, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') to modify the existing Floor Broker rebate for executed qualified contingent cross (''QCC'') orders. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to modify the existing Floor Broker rebate for executed QCC orders.[4] The proposed change will be operative on May 1, 2013.

Specifically, the Exchange proposes to adopt a tiered rebate based on Floor Broker executed QCC volume in a given month. The existing rebate is $.07 per contract,[5] and this rebate will continue to be paid to Floor Brokers that execute monthly QCC volumes up to and including 300,000 contracts. The Exchange is proposing to adopt a higher per contract rebate of $.10 per contract to be paid to Floor Brokers for any QCC volume in excess of 300,000 contracts in a given month. The rebate paid per contract will include all eligible volume within each tier at the applicable rate. The rebate is per contract and not retroactive to the first contract. Thus, if a Floor Broker has 400,000 contracts in QCC volume, he or she will earn a rebate of $.07 for the first 300,000 contracts and $.10 for the remaining 100,000 contracts. As with the existing rebate, Customer to Customer QCC trades will not qualify for any rebate as such a transaction nets the Exchange no revenue.[6]

The Exchange notes that the proposed rebate falls within the range of rebates paid for QCC volumes across the industry. Specifically, the Exchange notes that the International Securities Exchange (''ISE'') pays a volume-based rebate for QCC and Solicitation volumes that ranges from $.00 to $.11 per contract.[7] NASDAQ OMX PHLX (''PHLX'') also pays a volume-based rebate for QCC volume that ranges from $.00 to $.11 per contract.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[9] of the Act, in general, and Section 6(b)(4) and (5)[10] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed tiered rebates are reasonable because they are within the range of tiered volume rebates on other exchanges.[11] To the extent that the rebate is successful in attracting additional order flow to the Exchange, all market participants should benefit. Any participant will be able to engage a rebate-receiving Floor Broker in a discussion surrounding the appropriate level of fees that they may be charged for entrusting the QCC order to the Floor Broker. Moreover, the Exchange believes that the proposed rebates are equitable and not unfairly discriminatory because they will apply to all Floor Brokers that execute QCC orders on Exchange on an equal and non-discriminatory basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change will allow Floor Brokers to better compete for QCC volumes as the rebates are more in line with those paid to participants on other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive and/or rebates to be insufficient. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[12] of the Act and subparagraph (f)(2) of Rule 19b–4[13] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–39. This file number should be included on the subject line if email is used. To help the

[4] The QCC permits an NYSE Amex ATP Holder to effect a qualified contingent trade (''QCT'') in a Regulation NMS stock and cross the options leg of the trade on the Exchange immediately upon entry and without order exposure if the order is for at least 1,000 contracts, is part of a QCT, is executed at a price at least equal to the national best bid or offer, as long as there are no Customer orders in the Exchange's Consolidated Book at the same price.

[5] *See* Securities Act Release No. 66376 (February 10, 2012), 77 FR 9293 (February 16, 2012) (SR–NYSEAmex–2012–05).

[6] *See* Securities Act Release No. 65943 (December 13, 2011), 76 FR 78704 (December 19, 2011) (SR–NYSEAmex–2011–95).

[7] *See* ISE fee schedule, available at *http://www.ise.com/assets/documents/OptionsExchange/legal/fee/fee_schedule.pdf.*

[8] *See* PHLX fee schedule, available at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLXTools/PlatformViewer.asp?selectednode=chp_1_4&manual=%2Fnasdaqomxphlx%2Fphlx%2Fphlx-rules brd%2F.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *See supra* notes 7–8.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 15 U.S.C. 78s(b)(2)(B).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–39 and should be submitted on or before May 28, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10742 Filed 5–6–13; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13525 and #13526]

Maine Disaster Number ME–00035

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Maine (FEMA–4108–DR), dated 03/25/2013.

Incident: Severe Winter Storm, Snowstorm, and Flooding.

Incident Period: 02/08/2013 through 02/09/2013.

Effective Date: 04/30/2013.

Physical Loan Application Deadline Date: 05/24/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 12/26/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Maine, dated 03/25/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Sagadahoc, Washington.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–10837 Filed 5–6–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13557 and #13558]

Kansas Disaster #KS–00073

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kansas (FEMA–4112–DR), dated 04/26/2013.

Incident: Snowstorm.

Incident Period: 02/20/2013 through 02/23/2013.

Effective Date: 04/26/2013.

Physical Loan Application Deadline Date: 06/25/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 01/27/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/26/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Barber, Barton, Dickinson, Ellis, Franklin, Harper, Harvey, Hodgeman, Kingman, Marion, Mcpherson, Ness, Osage, Osborne, Pawnee, Phillips, Pratt, Rice, Rooks, Rush, Russell, Smith, Stafford.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13557B and for economic injury is 13558B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–10838 Filed 5–6–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13556]

Massachusetts Disaster #MA–00055 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the Commonwealth of Massachusetts, dated 04/26/2013.

Incident: Boston Marathon Bombing.

Incident Period: 04/15/2013.

Effective Date: 04/26/2013.

EIDL Loan Application Deadline Date: 01/27/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the

Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Suffolk.

Contiguous Counties:

Massachusetts: Essex, Middlesex, Norfolk.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for economic injury is 135560.

The Commonwealth which received an EIDL Declaration # is Massachusetts.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: April 26, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–10846 Filed 5–6–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small business Investment Company License No. 05/75–0259 issued to Dougherty Opportunity Fund II, LP, and said license is hereby declared null and void.

Dated: April 30, 2013.

United States Small Business Administration.

Harry E. Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 2013–10759 Filed 5–6–13; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Audit and Financial Management Advisory Committee (AFMAC)

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the Audit and Financial Management Advisory Committee (AFMAC). The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, May 21, 2013, from 1:00 p.m. to approximately 4:00 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held at the U.S. Small Business Administration, 409 3rd Street SW., Office of the Chief Financial Officer Conference Room, 6th Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the AFMAC. The AFMAC is tasked with providing recommendation and advice regarding the Agency's financial management, including the financial reporting process, systems of internal controls, audit process and process for monitoring compliance with relevant laws and regulations. The purpose of the meeting is to discuss the SBA's Financial Reporting, Audit Findings Remediation, Ongoing OIG Audits including the Information Technology Audit, Recovery Act, FMFIA Assurance/A–123 Internal Control Program, Credit Modeling, LMAS Project Status, Performance Management, Acquisition Division Update, Improper Payments, and current initiatives.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public, however advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the AFMAC must contact Jonathan Carver, by fax or email, in order to be placed on the agenda. Jonathan Carver, Chief Financial Officer, 409 3rd Street SW., 6th Floor, Washington, DC 20416, phone: (202) 205–6449, fax: (202) 205–6969, email: *Jonathan.Carver@sba.gov.*

Additionally, if you need accommodations because of a disability or require additional information, please contact Donna Wood at (202) 619–1608, email: *Donna.Wood@sba.gov;* SBA, Office of Chief Financial Officer, 409 3rd Street SW., Washington, DC 20416.

For more information, please visit our Web site at *http://www.sba.gov/aboutsba/sbaprograms/cfo/index.html.*

Dated: April 30, 2013.

Dan S. Jones,

White House Liaison.

[FR Doc. 2013–10843 Filed 5–6–13; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Military Reservist Economic Injury Disaster Loans; Interest Rate for Third Quarter FY 2013

In accordance with the Code of Federal Regulations 13—Business Credit and Assistance § 123.512, the following interest rate is effective for Military Reservist Economic Injury Disaster Loans approved on or after April 26, 2013.

Military Reservist Loan Program— 4.000%.

Dated: May 2, 2013.

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–10845 Filed 5–6–13; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Extension of the public comment period.

SUMMARY: The U.S. Small Business Administration is extending the public comment period for the notice to rescind a class waiver of the Nonmanufacturer Rule for Aerospace Ball and Roller Bearings, North American Industry Classification System (NAICS) code 332991, Products and Services Code (PSC) 3110, made available for public comment on April 4, 2013 (78 FR 20371). The public comment period for the notice to rescind the class waiver for Aerospace Ball and Roller Bearings was to close on May 4, 2013, and has now been extended to close on June 3, 2013. This extension is being made in response to a public request for additional review time.

DATES: The public comment period for the notice published on April 4, 2013 (78 FR 20371) will close on June 3, 2013.

FOR FURTHER INFORMATION CONTACT: You may submit comments, identified by

docket number SBA–2013–0004, by any of the following methods:

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

• *Mail/Hand Delivery/Courier:* Edward Halstead, Procurement Analyst, U.S. Small Business Administration, 409 3rd Street SW., 8th floor, Washington, DC 20416.

All comments will be posted on *www.Regulations.gov.* If you wish to include within your comment confidential business information (CBI) as defined in the Privacy and Use Notice/User Notice at *www.Regulations.gov* and you do not want that information disclosed, you must submit the comment by either Mail or Hand Delivery. In the submission, you must highlight the information that you consider is CBI and explain why you believe this information should be withheld as confidential. SBA will make a final determination, in its sole discretion, as to whether the information is CBI and therefore will be published or withheld.

FOR FURTHER INFORMATION CONTACT: Edward Halstead, (202) 205–9885, *Edward.halstead@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (the Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations generally require that recipients of Federal supply contracts that are set aside for small businesses, Small Disabled Veteran Owned Small Business Concerns, Women-Owned Small Businesses, or Participants in the SBA's 8(a) Business Development Program provide the product of a domestic small business manufacturer or processor if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b). The Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market. In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract or received a contract from the Federal government within the last 24 months. 13 CFR 121.1202(c). SBA defines ''class of products'' as an individual subdivision within a North American Industry Classification System (NAICS) Industry Number as established by the Office of Management and Budget in the NAICS Manual. 13 CFR 121.1202(d). In addition, SBA uses Product Service Codes (PSCs) to further identify particular products within the NAICS code to which a waiver would apply. SBA may then identify a specific item within a PSC and NAICS code to which a class waiver would apply.

On April 4, 2013, SBA published a notice in the **Federal Register** announcing that SBA was considering rescinding a class waiver of the Nonmanufacturer Rule for Aerospace Ball and Roller Bearings, NAICS code 332991, PSC 3110, based on information submitted by several small business manufacturers of aerospace ball and roller bearings that have done business with the Federal government within the previous two years. 78 FR 20371. The public comment period for the notice to rescind the class waiver for Aerospace Ball and Roller Bearings was to close on May 4, 2013. This notice announces an extension of the public comment period until June 3, 2013.

Kenneth W. Dodds,

Director, Office of Government Contracting.

[FR Doc. 2013–10812 Filed 5–3–13; 4:15 pm]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2006–0149]

RIN 0960–AF58

Medical Criteria for Evaluating Cystic Fibrosis

AGENCY: Social Security Administration.

ACTION: Notice of teleconference.

SUMMARY: On Friday, May 10, 2013 at 1:00 p.m., EDT, we will conduct an informational briefing on our proposed changes to Listings 3.04 and 103.04 of the Listing of Impairments, as described in our recent Notice of Proposed Rulemaking. The teleconference is open to the public and will be strictly informational. We will not be accepting additional public comments.

DATES: The teleconference will take place on Friday, May 10, 2013 at 1:00 p.m., EDT.

ADDRESSES: For additional information regarding this teleconference, please contact Cheryl Williams, Office of Medical Listings Improvement, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020.

For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: On Friday, May 10, 2013 at 1:00 p.m., EDT, we will conduct an informational briefing on our proposed changes to Listings 3.04 and 103.04 of the Listing of Impairments, as described in the Notice of Proposed Rulemaking we published in the **Federal Register** on February 4, 2013 (78 FR 7968). We use Listings 3.04 and 103.04 to evaluate claims involving cystic fibrosis in adults and children under titles II and XVI of the Social Security Act.

The teleconference is open to the public and we invite interested individuals to call in to listen. The teleconference will be strictly informational. The public comment period for this matter closed on April 5, 2013. We will not be accepting additional public comments.

To call in by telephone dial 1–888–576–4390 and use participant passcode 897116. The moderator of the teleconference will be Arthur R. Spencer, Associate Commissioner for Disability Programs.

Agenda

1. General background information on the disability program.

2. Information for individuals with cystic fibrosis who apply for Social Security disability benefits, and for individuals with cystic fibrosis who are currently receiving disability benefits.

3. Information we received from medical experts and members of the public.

4. Proposed criteria in listings 3.04 and 103.04.

A final agenda will be available at *http://www.socialsecurity.gov/disability/documents/Respiratory%20-%20CF%20Teleconference%20-%20Agenda%204-30-13.docx.*

We will post a summary of this teleconference in the rulemaking record at *http://www.regulations.gov.* Use the Search function of the Web page to find docket number SSA–2006–0149 and look under Supporting & Related Material.

Dated: May 1, 2013.

Arthur R. Spencer,

Associate Commissioner, Office of Disability Programs.

[FR Doc. 2013–10702 Filed 5–6–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8313]

Culturally Significant Objects Imported for Exhibition Determinations: ''Hall of Ancient Egypt''

AGENCY: Department of State.

ACTION: Notice, correction.

SUMMARY: On April 4, 2013, notice was published on page 20372 of the **Federal Register** (volume 78, number 65) of determinations made by the Department of State pertaining to the exhibition ''Hall of Ancient Egypt.'' The referenced notice is corrected here to include additional objects as part of the exhibition. Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the additional objects to be included in the exhibition ''Hall of Ancient Egypt,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The additional objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the additional exhibit objects at the Houston Museum of Natural Science, Houston, Texas, from on or about May 20, 2013, until on or about May 31, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the additional exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: April 29. 2013.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–10802 Filed 5–6–13; 8:45 am]

BILLING CODE 4710–05–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Public Law 104–13; Proposed Collection, Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed Collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Mark Winter, Tennessee Valley Authority, 1101 Market Street (MP–3C), Chattanooga, Tennessee 37402–2801; (423) 751–6004. Comments should be sent to the Agency Clearance Officer no later than July 8, 2013.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Employment Application.

Frequency of Use: On Occasion.

Type of Affected Public: Individuals.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 3,000.

Estimated Total Annual Burden Hours: 3,000.

Estimated Average Burden Hours per Response: 1.0.

Need For and Use of Information: Applications for employment are needed to collect information on qualifications, suitability for employment, and eligibility for veteran's preference. The information is used to make comparative appraisals and to assist in selections. The affected public consists of individuals who apply for TVA employment.

Michael T. Tallent,

Director, Enterprise Information Security & Policy.

[FR Doc. 2013–10773 Filed 5–6–13; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments on Negotiating Objectives With Respect to Japan's Participation in the Proposed Trans-Pacific Partnership Trade Agreement

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Request for comments and notice of a public hearing.

SUMMARY: The United States intends to commence negotiations with Japan as part of the ongoing negotiations of a Trans-Pacific Partnership (TPP) trade agreement. Including Japan in the negotiations furthers the objective of achieving a high-standard, broad-based Asia-Pacific regional agreement. In order to develop U.S. negotiating positions, the Office of the United States Trade Representative (USTR) is seeking comments from the public on all issues related to Japan's participation in the TPP negotiations. USTR also seeks comments on negotiations to address certain non-tariff measures of Japan that will be conducted bilaterally in parallel to the TPP negotiations and addressed by the conclusion of the TPP negotiations.

DATES: Written comments are due by 11:59 p.m., June 9, 2013. Persons wishing to testify orally at the hearing must provide written notification of their intention, as well as a summary of their testimony, by 11:59 p.m., June 9, 2013. The hearing will be held on July 2 beginning at 9:30 a.m., in the Main Hearing Room of the United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

ADDRESSES: Comments from the public should be submitted electronically at *www.regulations.gov.* If you are unable to provide submissions at *www.regulations.gov,* please contact Yvonne Jamison, Trade Policy Staff Committee (TPSC), at (202) 395–3475, to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, please contact Yvonne Jamison at the above number. All other questions regarding this notice should be directed to Jordan Heiber, Director for Japan Affairs, at (202) 395–5070.

SUPPLEMENTARY INFORMATION:

1. Background

In November 2011, Japan formally expressed its intention to seek consultations with the TPP countries regarding Japan's possible participation in the TPP negotiations. On December 7,

2011, USTR published a notice in the **Federal Register** (76 FR 76478), seeking public comments on Japan's possible participation in the TPP negotiations.

On April 24, 2013, following Congressional consultations and after having reached consensus on Japan's participation with the other TPP negotiating partners, (Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam), the U.S. Trade Representative notified Congress that the President intends to commence negotiations with Japan in the context of the ongoing negotiations of the TPP. The objective of this negotiation is to achieve a high-standard, 21st century agreement with a membership and coverage that provides economically significant market access opportunities for America's workers, manufacturers, service suppliers, farmers, ranchers, and small businesses. The addition of Japan to the group of TPP negotiating partners will contribute meaningfully to the achievement of these goals.

USTR is observing the relevant procedures of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804) with respect to notifying and consulting with Congress regarding the TPP negotiations. These procedures include providing Congress with 90 days advance written notice of the President's intent to enter into negotiations and consultation with appropriate Congressional interests regarding the negotiations.

In addition, under the Trade Act of 1974, as amended (19 U.S.C. 2151, 2153), in the case of an agreement such as the proposed TPP trade agreement, the President must (i) Afford interested persons an opportunity to present their views regarding any matter relevant to the proposed agreement, (ii) designate an agency or inter-agency committee to hold a public hearing regarding the proposed agreement, and (iii) seek the advice of the U.S. International Trade Commission (ITC) regarding the probable economic effect on U.S. industries and consumers of the removal of tariffs and non-tariff barriers on imports pursuant to the proposed agreement.

USTR intends to hold a public hearing on specific issues pertaining to Japan's participation in the TPP negotiations and with respect to the bilateral negotiations to address certain non-tariff measures of Japan on July 2, 2013. In addition, USTR has requested that the ITC provide advice to USTR on the probable economic effects of including Japan in a TPP trade agreement.

2. Public Comments

To assist USTR as it develops its negotiating objectives, the Chair of the Trade Policy Staff Committee (TPSC) invites interested persons to submit written comments and/or oral testimony at a public hearing on matters relevant to Japan's participation in the TPP negotiations and with respect to the bilateral negotiations to address certain non-tariff measures (for details on specific non-tariff measures to be discussed in the bilateral parallel negotiations, please refer to the ''Motor Vehicles Terms of Reference,'' which can be found at *http://go.usa.gov/T5gQ,* and the ''Non-Tariff Measures: U.S. Consultations with Japan'' fact sheet, which can be found at *http://go.usa.gov/T5gB*). Members of the public who submitted comments in response to the earlier request (76 FR 76478) need not make an additional submission unless the comments are different. Comments and testimony may address the reduction or elimination of tariffs or non-tariff barriers on any articles provided for in the Harmonized Tariff Schedule of the United States (HTSUS) that are products of Japan, any concession that should be sought by the United States, or any other matter relevant to the inclusion of Japan in the proposed TPP agreement or the parallel bilateral negotiations on non-tariff measures. The TPSC Chair invites comments on all of these matters and, in particular, seeks comments regarding:

(a) General and product-specific negotiating objectives for Japan in the context of the TPP negotiations;

(b) economic costs and benefits to U.S. producers and consumers of removal of tariffs and removal or reduction in non-tariff barriers on articles traded with Japan;

(c) treatment of specific goods (described by HTSUS numbers) under the proposed TPP agreement, including comments on—

(1) product-specific import or export interests or barriers,

(2) experience with particular measures that should be addressed in the negotiations, and

(3) approach to tariff negotiations, including recommended staging and ways to address export priorities and import sensitivities related to Japan in the context of the TPP agreement;

(d) adequacy of existing customs measures to ensure that qualifying imported goods from TPP countries, including Japan, receive preferential treatment, and appropriate rules of origin for goods entering the United States under the proposed TPP agreement;

(e) existing sanitary and phytosanitary measures and technical barriers to trade imposed by Japan that should be addressed in the TPP negotiations;

(f) existing barriers to trade in services between the United States and Japan that should be addressed in the TPP negotiations;

(g) relevant electronic commerce and cross-border data flow issues that should be addressed in the TPP negotiations;

(h) relevant investment issues that should be addressed in the TPP negotiations;

(i) relevant competition-related matters that should be addressed in the TPP negotiations;

(j) relevant government procurement issues, including coverage of any government agencies or state-owned enterprises engaged in procurements of interest, that should be addressed in the TPP negotiations;

(k) relevant environmental issues that should be addressed in the TPP negotiations;

(l) relevant labor issues that should be addressed in the TPP negotiations;

(m) relevant trade-related intellectual property rights issues that should be addressed in the TPP negotiations.

In addition to the matters described above, USTR is addressing new and emerging issues in this proposed regional agreement. Specifically, USTR is considering new approaches designed to promote innovation and competitiveness, encourage new technologies and emerging economic sectors, increase the participation of small- and medium-sized businesses in trade, and support the development of efficient production and supply chains that include U.S. firms in order to encourage firms to invest and produce in the United States. The TPSC Chair invites comments regarding how Japan's participation in the TPP negotiations might affect these new approaches. The TPSC Chair also invites comments on the impact of Japan's participation in the TPP negotiations on other trade-related priorities in the TPP agreement, including environmental protection and conservation, transparency, workers' rights and protections, development, and other issues.

USTR has already provided a notice and requested comments on the scope for an environmental review of the proposed TPP trade agreement (see 75 FR 14470, March 25, 2010). As described above, the present notice invites comments on, among other topics, environmental issues to be addressed in the TPP negotiations to take into account Japan's participation in the negotiation. Further comments

are also invited on the environmental review, including possible changes in the scope or other issues that should be addressed in the review. At a later date, USTR, through the TPSC, will publish notice of reviews regarding the impact of the proposed agreement on U.S. employment and labor markets. These reviews will take into account Japan's participation in the negotiations.

A hearing will be held beginning at 9:30 a.m. on July 2, 2013 in the Main Hearing Room of the United States International Trade Commission, 500 E Street SW., Washington, DC 20436. Persons wishing to testify at the hearing must provide written notification of their intention by 11:59 p.m., June 9. The intent to testify notification must be made in the ''Type Comment'' field under docket number USTR–2013–0022 on the regulations.gov Web site and should include the name, address and telephone number of the person presenting the testimony. A summary of the testimony should be attached by using the ''Upload File'' field. The name of the file should also include who will be presenting the testimony. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC.

3. Requirements for Submissions

Persons submitting comments must do so in English and must identify (on the first page of the submission) ''Participation of Japan in the Trans-Pacific Partnership Trade Negotiations.'' In order to be assured of consideration, comments should be submitted by 11:59 p.m., June 9, 2013. In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov*, enter docket number USTR–2013–0022 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through *www.regulations.gov,* if at all possible. Any alternative arrangements must be made with Ms. Jamison in advance of transmitting a comment. Ms. Jamison should be contacted at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov.*

Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the *http:www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Laurie-Ann Agama,

Acting Chairman, Trade Policy Staff Committee.

[FR Doc. 2013–10724 Filed 5–6–13; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Funding Availability for the Small Business Transportation Resource Center Program

AGENCY: Office of Small and Disadvantaged Business Utilization (OSDBU), Office of the Secretary of Transportation (OST), Department of Transportation (DOT).

ACTION: Notice of Funding Availability for the Southeast Region.

SUMMARY: The Department of Transportation (DOT), Office of the Secretary (OST), Office of Small and Disadvantaged Business Utilization (OSDBU) announces the opportunity for; (1) business centered community-based organizations; (2) transportation-related trade associations; (3) colleges and universities; (4) community colleges or; (5) chambers of commerce, registered with the Internal Revenue Service as 501 C (6) or 501 C (3) tax-exempt organizations, to compete for participation in OSDBU's Small Business Transportation Resource Center (SBTRC) program in the Southeast Region.

OSDBU will enter into Cooperative Agreements with these organizations to provide outreach to the small business community in their designated region and provide financial and technical assistance, business training programs, business assessment, management training, counseling, marketing and outreach, and the dissemination of information, to encourage and assist small businesses to become better prepared to compete for, obtain, and manage DOT funded transportation-related contracts and subcontracts at the federal, state and local levels. Throughout this notice, the term ''small business'' will refer to: 8(a), small disadvantaged businesses (SDB), disadvantaged business enterprises (DBE), women owned small businesses (WOSB), HubZone, service disabled veteran owned businesses (SDVOB), and veteran owned small businesses (VOSB). Throughout this notice, ''transportation-related'' is defined as the maintenance, rehabilitation, restructuring, improvement, or revitalization of any of the nation's modes of transportation.

Funding Opportunity Number: USDOT–OST–OSDBU–SBTRC2013SER–4.

Catalog of Federal Domestic Assistance (CFDA) Number: 20.910 Assistance to Small and Disadvantaged Businesses.

Type of Award: Cooperative Agreement.

Award Ceiling: $150,000.

Award Floor: $125,000.

Program Authority: DOT is authorized under 49 U.S.C. 332 (b) (4), (5) & (7) to design and carry out programs to assist small disadvantaged businesses in getting transportation-related contracts and subcontracts; develop support mechanisms, including management and technical services, that will enable small disadvantaged businesses to take advantage of those business opportunities; and to make arrangements to carry out the above purposes.

DATES: Complete Proposals must be electronically submitted to OSDBU via email on or before June 17, 2013 5:00 p.m. Eastern Standard Time (EST). Proposals received after the deadline will be considered non-responsive and will not be reviewed. The applicant is advised to request delivery receipt notification for email submissions. DOT plans to give notice of award for the competed region on or before July 1, 2013.

ADDRESSES: Applications must be electronically submitted to OSDBU via email at *SBTRC@dot.gov.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice, contact Ms. Patricia Martin, Program Analyst or Mark Antoniewicz, Small Business Specialist, at the U.S. Department of Transportation, Office of Small and Disadvantaged Business Utilization, 1200 New Jersey Avenue SE., W56–462, Washington, DC, 20590. Telephone: 1–800–532–1169 or email patricia.martin@dot.gov or mark.antoniewicz@dot.gov.

SUPPLEMENTARY INFORMATION:

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Full Text of Announcement

1. Introduction

1.1 Background

The Department of Transportation (DOT) established Office of Small and Disadvantaged Business Utilization (OSDBU) in accordance with Public Law 95–507, an amendment to the Small Business Act and the Small Business Investment Act of 1958.

The mission of OSDBU at DOT is to ensure that the small and disadvantaged business policies and goals of the Secretary of Transportation are developed and implemented in a fair, efficient and effective manner to serve small and disadvantaged businesses throughout the country. The OSDBU also administers the provisions of Title 49, Section 332, the Minority Resource Center (MRC) which includes the duties of advocacy, outreach and financial services on behalf of small and disadvantaged business and those certified under CFR 49 parts 23 and or 26 as Disadvantaged Business Enterprises (DBE) and the development of programs to encourage, stimulate, promote and assist small businesses to become better prepared to compete for, obtain and manage transportation-related contracts and subcontracts.

The Regional Assistance Division of OSDBU, through the SBTRC program, allows OSDBU to partner with local organizations to offer a comprehensive delivery system of business training, technical assistance and dissemination of information, targeted towards small business transportation enterprises in their regions.

1.2 Program Description and Goals

The national SBTRC program utilizes Cooperative Agreements with chambers of commerce, trade associations, educational institutions and business-centered community based organizations to establish SBTRCs to provide business training, technical assistance and information to DOT grantees and recipients, prime contractors and subcontractors. In order to be effective and serve their target audience, the SBTRCs must be active in the local transportation community in order to identify and communicate opportunities and provide the required technical assistance. SBTRCs must already have, or demonstrate the ability to, establish working relationships with the state and local transportation agencies and technical assistance agencies (i.e., The U.S. Department of Commerce's Minority Business Development Centers (MBDCs), Small Business Development Centers (SBDCs), and Procurement Technical Assistance Centers (PTACs), SCORE and State DOT highway supportive services contractors in their region. Utilizing these relationships and their own expertise, the SBTRCs are involved in activities such as information dissemination, small business counseling, and technical assistance with small businesses currently doing business with public and private entities in the transportation industry.

Effective outreach is critical to the success of the SBTRC program. In order for their outreach efforts to be effective, SBTRCs must be familiar with DOT's Operating Administrations, its funding sources, and how funding is awarded to DOT grantees, recipients, contractors, subcontractors, and its financial assistance programs. SBTRCs must provide outreach to the regional small business transportation community to disseminate information and distribute DOT-published marketing materials, such as Short Term Lending Program (STLP) Information, Bonding Education Program (BEP) information, SBTRC brochures and literature, Procurement Forecasts; Contracting with DOT booklets, Women and Girls in Transportation Initiative (WITI) information, and any other materials or resources that DOT or OSDBU may develop for this purpose. To maximize outreach, the SBTRC may be called upon to participate in regional and national conferences and seminars. Quantities of DOT publications for on-hand inventory and dissemination at conferences and seminars will be available upon request from the OSDBU office.

1.3 Description of Competition

The purpose of this Request For Proposal (RFP) is to solicit proposals from transportation-related trade associations, chambers of commerce, community based entities, colleges and universities, community colleges, and any other qualifying transportation-related non-profit organizations with the desire and ability to partner with OSDBU to establish and maintain an SBTRC.

It is OSDBU's intent to award a Cooperative Agreement to one organization in the Southeast Region, from herein referred to as ''region'', in this solicitation. However, if warranted, OSDBU reserves the option to make multiple awards to selected partners. Proposals submitted for a region must contain a plan to service all states listed in the entire region, not just the SBTRC's state or local geographical area. The region's SBTRC headquarters must be established in one of the designated

states set forth below. Submitted proposals must also contain justification for the establishment of the SBTRC headquarters in a particular city within the designated state.

SBTRC Region Competed in This Solicitation:

Southeast Regions:

Florida

Alabama

Mississippi

Puerto Rico

United States Virgin Island

Program requirements and selection criteria, set forth in Sections 2 and 4 respectively, indicate that the OSDBU intends for the SBTRC to be multidimensional; that is, the selected organization must have the capacity to effectively access and provide supportive services to the broad range of small businesses within the respective geographical region. To this end, the SBTRC must be able to demonstrate that they currently have established relationships within the geographic region with whom they may coordinate and establish effective networks with DOT grant recipients and local/regional technical assistance agencies to maximize resources. Cooperative agreement awards will be distributed to the region(s) as follows:

Southeast Region:

Ceiling: $150,000 per year

Floor: $125,000 per year

Cooperative agreement awards by region are based upon an analysis of DBEs, Certified Small Businesses, and US DOT transportation dollars in each region.

It is OSDBU's intent to maximize the benefits received by the small business transportation community through the SBTRC. Funding may be utilized to reimburse an on-site Project Director up to 100% of salary plus fringe benefits, an on-site Executive Director up to 20% of salary plus fringe benefits, up to 100% of a Project Coordinator salary plus fringe benefits, the cost of designated SBTRC space, other direct costs, and all other general and administrative expenses. Selected SBTRC partners will be expected to provide in-kind administrative support. Submitted proposals must contain an alternative funding source with which the SBTRC will fund administrative support costs. Preference will be given to proposals containing in-kind contributions for the Project Director, the Executive Director, the Project Coordinator, cost of designated SBTRC space, other direct costs, and all other general and administrative expenses.

1.4 Duration of Agreements

The cooperative agreement will be awarded for a period of 12 months (one year) with options for two (2) additional one year periods. OSDBU will notify the SBTRC of our intention to exercise an option year or not to exercise an option year 30 days in advance of expiration of the current year.

1.5 Authority

DOT is authorized under 49 U.S.C. 332 (b) (4), (5) &(7) to design and carry out programs to assist small disadvantaged businesses in getting transportation-related contracts and subcontracts; develop support mechanisms, including management and technical services, that will enable small disadvantaged businesses to take advantage of those business opportunities; and to make arrangements to carry out the above purposes.

1.6 Eligibility Requirements

To be eligible, an organization must be an established, nonprofit, community-based organization, transportation-related trade association, chamber of commerce, college or university, community college, and any other qualifying transportation-related non-profit organization which has the documented experience and capacity necessary to successfully operate and administer a coordinated delivery system that provides access for small businesses to prepare and compete for transportation-related contracts.

In addition, to be eligible, the applicant organization must:

(A) Be an established 501 C (3) or 501 C (6) tax-exempt organization and provide documentation as verification. No application will be accepted without proof of tax-exempt status;

(B) Have at least one year of documented and continuous experience prior to the date of application in providing advocacy, outreach, and technical assistance to small businesses within the region in which proposed services will be provided. Prior performance providing services to the transportation community is preferable, but not required; and

(C) Have an office physically located within the proposed city in the designated headquarters state in the region for which they are submitting the proposal that is readily accessible to the public.

2. Program Requirements

2.1 Recipient Responsibilities

(A) Assessments, Business Analyses

1. Conduct an assessment of small businesses in the SBTRC region to determine their training and technical assistance needs, and use information that is available at no cost to structure programs and services that will enable small businesses to become better prepared to compete for and receive transportation-related contract awards.

2. Contact other federal, state and local government agencies, such as the U.S. Small Business Administration (SBA), state and local highway agencies, state and local airport authorities, and transit authorities to identify relevant and current information that may support the assessment of the regional small business transportation community needs.

(B) General Management & Technical Training and Assistance

1. Utilize OSDBU's Monthly Reporting Form to document each small business assisted by the SBTRC and type of service(s) provided. The completed form must be transmitted electronically to the SBTRC Program Analyst on a monthly basis, accompanied by a narrative report on the activities and performance results for that period. The data gathered must be supportive by the narrative and must relate to the numerical data on the monthly reports.

2. Ensure that an array of information is made available for distribution to the small business transportation community that is designed to inform and educate the community on DOT/OSDBU services and opportunities.

3. Coordinate efforts with OSDBU's in order to maintain an on-hand inventory of DOT/OSDBU informational materials for general dissemination and for distribution at transportation-related conferences and other events.

(C) Business Counseling

1. Collaborate with agencies, such as the State, Regional, and Local Transportation Government Agencies, SBA, U.S. Department of Commerce's Minority Business Development Centers (MBDCs), Service Corps of Retired Executives (SCORE), Procurement Technical Assistance Centers (PTACs), and Small Business Development Centers (SBDCs), to offer a broad range of counseling services to transportation-related small business enterprises.

2. Create a technical assistance plan that will provide each counseled participant with the knowledge and

skills necessary to improve the management of their own small business to expand their transportation-related contracts and subcontracts portfolio.

3. Provide a minimum of 20 hours of individual or group counseling sessions to small businesses per month.

(D) Planning Committee

1. Establish a Regional Planning Committee consisting of at least 7 members that includes representatives from the regional community and federal, state, and local agencies. The highway, airport, and transit authorities for the SBTRC's headquarters state must have representation on the planning committee. This committee shall be established no later than 60 days after the execution of the Cooperative agreement between the OSDBU and the selected SBRTC.

2. Provide a forum for the federal, state, and local agencies to disseminate information about upcoming procurements.

3. Hold either monthly or quarterly meetings at a time and place agreed upon by SBTRC and planning committee members.

4. Use the initial session (teleconference call) by the SBTRC explain the mission of the committee and identify roles of the staff and the members of the group.

5. Responsibility for the agenda and direction of the Planning Committee should be handled by the SBTRC Executive Director or his/her designee.

(E) Outreach Services/Conference Participation

1. Utilize the services of the System for Award Management (SAM) and other sources to construct a database of regional small businesses that currently or may in the future participate in DOT direct and DOT funded transportation related contracts, and make this database available to OSDBU, upon request.

2. Utilize the database of regional transportation-related small businesses to match opportunities identified through the planning committee forum, FedBiz Opps (a web-based system for posting solicitations and other Federal procurement-related documents on the Internet), and other sources to eligible small businesses and inform the small business community about those opportunities.

3. Develop a ''targeted'' database of firms (100–150) that have the capacity and capabilities, and are ready, willing and able to participate in DOT contracts and subcontracts immediately. This control group will receive ample resources from the SBTRC, i.e., access to working capital, bonding assistance, business counseling, management assistance and direct referrals to DOT agencies at the state and local levels, and to prime contractors as effective subcontractor firms.

4. Identify regional, state and local conferences where a significant number of small businesses, with transportation related capabilities, are expected to be in attendance. Maintain and submit a list of those events to the SBTRC Program Analyst for review and posting on the OSDBU Web site on a monthly basis. Clearly identify the events designated for SBTRC participation and include recommendations for OSDBU participation.

5. Conduct outreach and disseminate information to small businesses at regional transportation-related conferences, seminars, and workshops. In the event that the SBTRC is requested to participate in an event, the SBTRC will send DOT materials, the OSDBU banner and other information that is deemed necessary for the event.

6. Submit a conference summary report to OSDBU no later than 5 business days after participation in the event or conference. The conference summary report must summarize activities, contacts, outreach results, and recommendations for continued or discontinued participation in future similar events sponsored by that organization.

7. Upon request by OSDBU, coordinate efforts with DOT's grantees and recipients at the state and/or local levels to sponsor or cosponsor an OSDBU transportation related conference in the region

8. Participate in monthly teleconference call with the Regional Assistance Division Program Manager and OSDBU staff.

(F) Short Term Lending Program (STLP)

1. Work with STLP participating banks and if not available, other lending institutions to deliver a minimum of five (5) seminars/workshops per year on the STLP financial assistance program to the transportation-related small business community. The seminar/workshop must cover the entire STLP process, from completion of STLP loan applications and preparation of the loan package to graduation from the STLP.

2. Provide direct support, technical support, and advocacy services to potential STLP applicants to increase the probability of STLP loan approval and generate a minimum of 7 approved STLP applications per year.

(G) Bonding Education Program (BEP)

Work with OSDBU, bonding industry partners, local small business transportation stakeholders, and local bond producers/agents in your region to deliver a minimum of 2 complete BEP seminars. The BEP consists of the following components; (1) The stakeholder's meeting; (2) the educational workshops component; (3) the bond readiness component; and 4) follow-on assistance to BEP participants via technical and procurement assistance based on the prescriptive plan determined by the BEP. For each BEP event, work with the local bond producers/agents in your region and the disadvantaged business participants to deliver minimum of 10 disadvantaged business participants in the BEP event with either access to bonding or an increase in bonding capacity. Furnish all labor, facilities and equipment to perform the services described in this announcement.

(H) Women and Girls in Transportation Initiative (WITI)

Pursuant to Executive Order 13506, and 49 U.S.C. 332(b)(4) & (7), the SBTRC shall administer the WITI in their geographical region. The SBTRC shall implement the DOT WITI program as defined by the DOT WITI Policy. The WITI program is designed to identify, educate, attract, and retain women and girls from a variety of disciplines in the transportation industry. The SBTRC shall also be responsible for outreach activities in the implementation of this program and advertising the WITI program to all colleges and universities and transportation entities in their region. The WITI program shall be developed in conjunction with the skill needs of the USDOT, state and local transportation agencies and appropriate private sector transportation-related participants including, S/WOBs/DBEs, and women organizations involved in transportation. Emphasis shall be placed on establishing partnerships with transportation-related businesses. The SBTRC will be required to host 1 WITI event and attend at least 5 events where WITI is presented and marketed.

2.2 Office of Small and Disadvantaged Business Utilization (OSDBU) Responsibilities

(A) Provide consultation and technical assistance in planning, implementing and evaluating activities under this announcement.

(B) Provide orientation and training to the applicant organization.

(C) Monitor SBTRC activities, cooperative agreement compliance, and overall SBTRC performance.

(D) Assist SBTRC to develop or strengthen its relationships with federal, state, and local transportation authorities, other technical assistance organizations, and DOT grantees.

(E) Facilitate the exchange and transfer of successful program activities and information among all SBTRC regions.

(F) Provide the SBTRC with DOT/OSDBU materials and other relevant transportation related information for dissemination.

(G) Maintain effective communication with the SBTRC and inform them of transportation news and contracting opportunities to share with small businesses in their region.

(H) Provide all required forms to be used by the SBTRC for reporting purposes under the program.

(I) Perform an annual performance evaluation of the SBTRC. Satisfactory performance is a condition of continued participation of the organization as an SBTRC and execution of all option years.

3. Submission of Proposals

3.1 Format for Proposals

Each proposal must be submitted to DOT's OSDBU in the format set forth in the application form attached as Appendix A to this announcement.

3.2 Address; Number of Copies; Deadlines for Submission

Any eligible organization, as defined in Section 1.6 of this announcement, will submit only one proposal per organization for consideration by OSDBU. Applications must be double spaced, and printed in a font size not smaller than 12 points. Applications will not exceed 35 single-sided pages, not including any requested attachments. All pages should be numbered at the top of each page. All documentation, attachments, or other information pertinent to the application must be included in a single submission. Proposal packages must be submitted electronically to OSDBU at *SBTRC@dot.gov.* The applicant is advised to turn on request delivery receipt notification for email submission. Proposals must be received by DOT/OSDBU no later than June 17, 2013, 5:00 p.m., EST. If you have any problems submitting your proposal, please email *patricia.martin@dot.gov* or *mark.antoniewicz@dot.gov* or telephone (202) 366–1930.

4. Selection Criteria

4.1 General Criteria

OSDBU will award the cooperative agreement on a best value basis, using the following criteria to rate and rank applications:

Applications will be evaluated using a point system (maximum number of points = 100);

- Approach and strategy (25 points)
- Linkages (25 points)
- Organizational Capability/Site visit (25 points)
- Staff Capabilities and Experience (15 points)
- Cost Proposal (10 points)

(A) Approach and Strategy (25 Points)

The applicant must describe their strategy to achieve the overall mission of the SBTRC as described in this solicitation and service the small business community in their entire geographic regional area. The applicant must also describe how the specific activities outlined in Section 2.1 will be implemented and executed in the organization's regional area. OSDBU will consider the extent to which the proposed objectives are specific, measurable, time-specific, and consistent with OSDBU goals and the applicant organization's overall mission. OSDBU will give priority consideration to applicants that demonstrate innovation and creativity in their approach to assist small businesses to become successful transportation contractors and increase their ability to access DOT contracting opportunities and financial assistance programs. Applicants must also submit the estimated direct costs, other than labor, to execute their proposed strategy. OSDBU will consider the quality of the applicant's plan for conducting program activities and the likelihood that the proposed methods will be successful in achieving proposed objectives at the proposed cost.

(B) Linkages (25 Points)

The applicant must describe their established relationships within their geographic region and demonstrate their ability to coordinate and establish effective networks with DOT grant recipients and local/regional technical assistance agencies to maximize resources. OSDBU will consider innovative aspects of the applicant's approach and strategy to build upon their existing relationships and established networks with existing resources in their geographical area. The applicant should describe their strategy to obtain support and collaboration on SBTRC activities from DOT grantees and recipients, transportation prime contractors and subcontractors, the SBA, U.S. Department of Commerce's Minority Business Development Centers (MBDCs), Service Corps of Retired Executives (SCORE), Procurement Technical Assistance Centers (PTACs), Small Business Development Centers (SBDCs), State DOTs, and State highway supportive services contractors. In rating this factor, OSDBU will consider the extent to which the applicant demonstrates ability to be multidimensional. The applicant must demonstrate that they have the ability to access a broad range of supportive services to effectively serve a broad range of transportation-related small businesses within their respective geographical region. Emphasis will also be placed on the extent to which the applicant identifies a clear outreach strategy related to the identified needs that can be successfully carried out within the period of this agreement and a plan for involving the Planning Committee in the execution of that strategy.

(C) Organizational Capability (25 Points)

The applicant must demonstrate that they have the organizational capability to meet the program requirements set forth in Section 2. The applicant organization must have sufficient resources and past performance experience to successfully provide outreach to the small business transportation resources in their geographical area and carry out the mission of the SBTRC. In rating this factor, OSDBU will consider the extent to which the applicant's organization has recent, relevant and successful experience in advocating for and addressing the needs of small businesses. Applicants will be given points for demonstrated past transportation-related performance. The applicant must also describe technical and administrative resources it plans to use in achieving proposed objectives. In their description, the applicant must describe their facilities, computer and technical facilities, ability to tap into volunteer staff time, and a plan for sufficient matching alternative financial resources to fund the general and administrative costs of the SBTRC. The applicant must also describe their administrative and financial management staff. It will be the responsibility of the successful candidate to not only provide the services outlined herein to small businesses in the transportation industry, but to also successfully manage and maintain their internal financial, payment and invoicing process with their financial management offices. OSDBU will place an emphasis on capabilities of the applicant's financial management staff. Additionally, a site visit will be

required prior to award for those candidates that are being strongly considered. A member of the OSDBU team will contact those candidates to schedule the site visits prior to the award of the agreement.

(D) Staff Capability and Experience (15 Points)

The applicant organization must provide a list of proposed personnel for the project, with salaries, fringe benefit burden factors, educational levels and previous experience clearly delineated. The applicant's project team must be well-qualified, knowledgeable, and able to effectively serve the diverse and broad range of small businesses in their geographical region. The Executive Director and the Project Director shall be deemed key personnel. Detailed resumes must be submitted for all proposed key personnel and outside consultants and subcontractors. Proposed key personnel must have detailed demonstrated experience providing services similar in scope and nature to the proposed effort. The proposed Project Director will serve as the responsible individual for the program. 100% of the Project Director's time must be dedicated to the SBTRC. Both the Executive Director and the Project Director must be located on-site. In this element, OSDBU will consider the extent to which the applicant's proposed Staffing Plan; (a) clearly meets the education and experience requirements to accomplish the objectives of the cooperative agreement; (b) delineates staff responsibilities and accountability for all work required and; (c) presents a clear and feasible ability to execute the applicant's proposed approach and strategy.

(E) Cost Proposal (10 Points)

Applicants must submit the total proposed cost of establishing and administering the SBTRC in the applicant's geographical region for a 12 month period, inclusive of costs funded through alternative matching resources. The applicant's budget must be adequate to support the proposed strategy and costs must be reasonable in relation to project objectives. The portion of the submitted budget funded by OSDBU cannot exceed the ceiling outlined in Section 1.3: Description of Competition of this RFP per fiscal year. Applicants are encouraged to provide in-kind costs and other innovative cost approaches.

4.2 Scoring of Applications

A review panel will score each application based upon the evaluation criteria listed above. Points will be given for each evaluation criteria category, not to exceed the maximum number of points allowed for each category. Proposals which are deemed non–responsive, do not meet the established criteria, or incomplete at the time of submission will be disqualified. OSDBU will perform a responsibility determination of the prospective awardee in the region, which will include a site visit, before awarding the cooperative agreement.

4.3 Conflicts of Interest

Applicants must submit signed statements by key personnel and all organization principals indicating that they, or members of their immediate families, do not have a personal, business or financial interest in any DOT-funded transportation project, nor any relationships with local or state transportation agencies that may have the appearance of a conflict of interest.

Appendix A—Format for Proposals for the Department of Transportation Office of Small and Disadvantaged Business Utilization's Small Business Transportation Resource Center (SBTRC) Program

Submitted proposals for the DOT, Office of Small and Disadvantaged Business Utilization's Small Business Transportation Resource Center Program must contain the following 12 sections and be organized in the following order:

1. Table of Contents

Identify all parts, sections and attachments of the application.

2. Application Summary

Provide a summary overview of the following:

- The applicant's proposed SBTRC region and city and key elements of the plan of action/strategy to achieve the SBTRC objectives.
- The applicant's relevant organizational experience and capabilities.

3. Understanding of the Work

Provide a narrative which contains specific project information as follows:

- The applicant will describe its understanding of the OSDBU's SBTRC program mission and the role of the applicant's proposed SBTRC in advancing the program goals.
- The applicant will describe specific outreach needs of transportation-related small businesses in the applicant's region and how the SBTRC will address the identified needs.

4. Approach and Strategy

- Describe the applicant's plan of action/strategy for conducting the program in terms of the tasks to be performed.
- Describe the specific services or activities to be performed and how these services/activities will be implemented.
- Describe innovative and creative approaches to assist small businesses to become successful transportation contractors and increase their ability to access DOT contracting opportunities and financial assistance programs.
- Estimated direct costs, other than labor, to execute the proposed strategy.

5. Linkages

- Describe established relationships within the geographic region and demonstrate the ability to coordinate and establish effective networks with DOT grant recipients and local/regional technical assistance agencies.
- Describe the strategy to obtain support and collaboration on SBTRC activities from DOT grantees and recipients, transportation prime contractors and subcontractors, the SBA, U.S. Department of Commerce's Minority Business Development Centers (MBDCs), Service Corps of Retired Executives (SCORE), Procurement Technical Assistance Centers (PTACs), Small Business Development Centers (SBDCs), State DOTs, and State highway supportive services contractors.
- Describe the outreach strategy related to the identified needs that can be successfully carried out within the period of this agreement and a plan for involving the Planning Committee in the execution of that strategy.

6. Organizational Capability

- Describe recent and relevant past successful performance in addressing the needs of small businesses, particularly with respect to transportation-related small businesses.
- Describe internal technical, financial management, and administrative resources.
- Propose a plan for sufficient matching alternative financial resources to fund the general and administrative costs of the SBTRC.

7. Staff Capability and Experience

- List proposed key personnel, their salaries and proposed fringe benefit factors.
- Describe the education, qualifications and relevant experience of key personnel. Attach detailed resumes.
- Proposed staffing plan. Describe how personnel are to be organized for the program and how they will be used to accomplish program objectives. Outline staff responsibilities, accountability and a schedule for conducting program tasks.

8. Cost Proposal

- Outline the total proposed cost of establishing and administering the SBTRC in the applicant's geographical region for a 12 month period, inclusive of costs funded through alternative matching resources. Clearly identify the portion of the costs funded by OSDBU.
- Provide a brief narrative linking the cost proposal to the proposed strategy.

9. Proof of Tax Exempt Status

10. Assurances Signature Form

Complete the attached Standard Form 424B ASSURANCES—NON-CONSTRUCTION PROGRAMS.

11. Certification Signature Forms

Complete form DOTF2307–1 Drug-Free Workplace Act Certification and Form DOTF2308–1 Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements.

Signed Conflict of Interest Statements

The statements must say that they, or members of their immediate families, do not have a personal, business or financial interest in any DOT-funded transportation projects, nor any relationships with local or state transportation agencies that may have the appearance of a conflict of interest.

12. Standard Form 424

Complete Standard Form 424 Application for Federal Assistance.

Note: All forms can be downloaded from U.S. Department of Transportation Web site at *http://www.dot.gov/gsearch/424%2Bform.*

Issued in Washington, DC, on April 24, 2013.

Brandon Neal,

Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary, U.S. Department of Transportation.

[FR Doc. 2013–10780 Filed 5–6–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement: Loop 1604 From I–35 to US 90, Bexar County, TX

AGENCY: Federal Highway Administration, DOT.

ACTION: Rescind notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Highway Administration (FHWA), in cooperation with the Texas Department of Transportation (TxDOT) and the Alamo Regional Mobility Authority (RMA), is issuing this notice to advise the public that the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the proposed improvements to Loop 1604 from I–35 to US 90 is rescinded. The NOI was originally published in the **Federal Register** on July 31, 2009 (Volume 74, No. 146, Page 38260) and an amended NOI was published on April 13, 2010 (Volume 75, No. 70, Page 18941) changing the limits of the project.

FOR FURTHER INFORMATION CONTACT: Mr. Salvador Deocampo, District Engineer, District A, Federal Highway Administration (FHWA), Texas Division, 300 East 8th Street, Rm. 826, Austin, Texas 78701, Telephone 512–536–5950.

SUPPLEMENTARY INFORMATION: FHWA in cooperation with TxDOT and the Alamo RMA issued a NOI on July 31, 2009, advising the public that they would be preparing an EIS for transportation improvements to Loop 1604 from FM 1957 to I–35 North, a distance of 32.35 miles. FHWA, TxDOT and Alamo RMA then issued an amended NOI to advise the pubic of changes to the aforementioned EIS for proposed Loop 1604 improvements. Specifically, the southwestern limit of the proposed improvements changed from FM 1957 to US 90 for a total distance of approximately 37 miles. The change to the limits of the proposed improvements was consistent with the San Antonio-Bexar County Metropolitan Planning Organization's (MPO) Mobility 2035 Plan (December 2009) and was done as part of a response to comments received during the first scoping meetings held in October 2009.

Since then, changes in the MPO's Mobility 2035 Plan and detailed analysis of the corridor have led to a decision to significantly change the design concept and scope of the proposed project and implementation. It is anticipated the project will be analyzed in two or more independent projects with different scopes and separate environmental documents.

Issued on: April 30, 2013.

Salvador Deocampo,

District Engineer.

[FR Doc. 2013–10789 Filed 5–6–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–28043]

Hours of Service (HOS) of Drivers; Application for Renewal and Expansion of American Pyrotechnics Association (APA) Exemption From the 14-Hour Rule During Independence Day Celebrations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for renewal and expansion of exemption; request for comments.

SUMMARY: The American Pyrotechnics Association (APA) has requested a renewal of its exemption for 48 APA member-companies from FMCSA's regulation that drivers of commercial motor vehicles (CMVs) may not drive after the 14th hour after coming on duty, and the expansion of its exemption to 10 additional carriers. The APA was previously granted an exemption for 48 of the 58 APA member-companies during the Independence Day periods in 2011 and 2012. Like the other 48 member-companies that operated under the 2011–2012 exemption, the 10 additional member-companies would be subject to all of the terms and conditions of the exemption for the 2013–2014 periods. The exemption would apply solely to the operation of CMVs by these 58 APA-member companies in conjunction with staging fireworks shows celebrating Independence Day during the periods June 28–July 8, 2013, and June 28–July 8, 2014, inclusive. During these two periods, approximately 3,200 CMVs and drivers employed by these APA member-companies would be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour driving window. These drivers would not be allowed to drive after accumulating a total of 14 hours of on-duty time, following 10 consecutive hours off duty, and would continue to be subject to the 11-hour driving time limit, and the 60- and 70-hour on-duty limits. The APA maintains that the terms and conditions of the limited exemption would ensure a level of safety equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: If granted, this exemption would be effective during the periods of June 28, 2013, through July 8, 2013, inclusive, and June 28, 2014, through July 8, 2014, inclusive. The exemption would expire on July 8, 2014 at 11:59 p.m. Comments must be received on or before June 6, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2007–28043 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* In the ENTER KEYWORD OR ID box enter FMCSA–2007–28043 and click on the tab labeled SEARCH. On the ensuing page, click on any tab labeled SUBMIT A COMMENT on the extreme right of the page and a page should open that is titled ''Submit a Comment.'' You may identify yourself under section 1, ENTER INFORMATION, or you may skip section 1 and remain anonymous. You enter your comments in section 2, TYPE COMMENT & UPLOAD FILE. When you are ready to submit your comments, click on the tab labeled SUBMIT. Your comment is then submitted to the docket; and you will receive a tracking number.

- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the *Public Participation* heading below. Note that all comments received will be posted without change to *www.regulations.gov*, including any personal information provided. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov* at any time, and in the ENTER KEYWORD OR ID box enter FMCSA–2007–28043 and click on the tab labeled SEARCH.

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 the U.S. Department of Transportation's online privacy policy at *www.dot.gov/privacy* or the complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316).

Public Participation: The *www.regulations.gov* Web site is generally available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the *www.regulations.gov* Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

APA Application for Exemption

The hours-of-service (HOS) rule in 49 CFR 395.3(a)(2) prohibits a property-carrying CMV driver from driving a CMV after the 14th hour after coming on duty following 10 consecutive hours off duty. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the HOS requirements in 49 CFR 395.3(a)(2) for a 2-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The procedures for requesting an exemption (including renewals) are prescribed in 49 CFR part 381.

The APA, a trade association representing the domestic fireworks industry, was previously granted an exemption for 48 of the 58 APA-member companies during the Independence Day periods in 2011 and 2012. The APA held similar 2-year exemptions during Independence Day periods from 2005 through 2010. The 2011–2012 exemption expired on July 9, 2012. Like the other 48 member companies that operated under the 2011–2012 exemption, the 10 specified additional member-companies would be subject to all of the terms and conditions of the exemption.

The initial APA exemption application for relief from the 14-hour rule was submitted in 2004; a copy of the application is in the docket. That application fully describes the nature of the pyrotechnic operations of the CMV drivers employed by APA member-companies during a typical Independence Day period.

As stated in APA's 2004 request, the CMV drivers employed by APA member-companies are trained pyro technicians who hold commercial driver's licenses (CDLs) with hazardous materials (HM) endorsements. They transport fireworks and related equipment by CMVs on a very demanding schedule during a brief Independence Day period, often to remote locations. After they arrive, the drivers are responsible for set-up and staging of the fireworks shows.

The APA states that it is seeking an HOS exemption for the 2013 and 2014 Independence Day periods because compliance with the current 14-hour rule in 49 CFR 395.3(a)(2) by its members would impose a substantial economic hardship on numerous cities, towns and municipalities, as well as its member-companies. To meet the demand for fireworks under the current HOS rules, APA member-companies state that they would be required to hire a second driver for most trips. The APA advises that the result would be a substantial increase in the cost of the fireworks shows—beyond the means of many of its members' customers—and that many Americans would be denied this important component of the celebration of Independence Day. The 58 APA-member companies within the scope of this exemption request are listed in an appendix to this notice. A copy of the request for the exemption is included in the docket referenced at the beginning of this notice.

Method To Ensure an Equivalent or Greater Level of Safety

The APA believes that renewal of the exemption will not adversely affect the safety of the fireworks transportation provided by these motor carriers. According to APA, its member-companies have operated under this exemption for eight previous Independence Day periods without a reported motor carrier safety incident. Moreover, it asserts, without the extra duty-period time provided by the exemption, safety would decline because APA drivers would be unable to return to their home base after each show. They would be forced to park the CMVs carrying HM 1.1G, 1.3G and 1.4G products in areas less secure than the motor carrier's home base. As a condition of holding the exemption, each motor carrier would be required to notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5) involving the operation of any its CMVs while under this exemption. To date, FMCSA has received no accident notifications, nor is the Agency aware of any accidents reportable under terms of the prior APA exemptions.

In its exemption request, APA asserts that the operational demands of this unique industry minimize the risks of CMV crashes. In the last few days before the Independence Day holiday, these drivers transport fireworks over relatively short routes from distribution points to the site of the fireworks display, and normally do so in the early morning when traffic is light. At the site, they spend considerable time installing, wiring, and safety-checking the fireworks displays, followed by several hours off duty in the late afternoon and early evening prior to the event. During this time, the drivers are able to rest and nap, thereby reducing or eliminating the fatigue accumulated during the day. Before beginning another duty day, these drivers must take 10 consecutive hours off duty, the same as other CMV drivers.

Terms and Conditions of the Exemption

Period of the Exemption

The requested exemption from the requirements of 49 CFR 395.3(a)(2) is proposed to be effective June 28 through

July 8, 2013, inclusive, and from June 28 through July 8, 2014, inclusive. The exemption would expire on July 8, 2014, at 11:59 p.m. local time.

Extent of the Exemption

This exemption would be restricted to drivers employed by the 58 motor carriers listed in the appendix to this notice. The drivers would be given a limited exemption from the requirements of 49 CFR 395.3(a)(2). This regulation prohibits a driver from driving a CMV after the 14th hour after coming on duty and does not permit off-duty periods to extend the 14-hour limit. Drivers covered by this exemption would be able to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour limit. This exemption would be contingent on each driver driving no more than 11 hours in the 14-hour period after coming on duty. The exemption would be further contingent on each driver having a full 10 consecutive hours off duty following 14 hours on duty prior to beginning a new driving period. The carriers and drivers must comply with all other requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399) and Hazardous Materials Regulations (49 CFR parts 105–180).

Preemption

During the periods the exemption would be in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person or entity operating under the exemption (49 U.S.C. 31315(d)).

FMCSA Notification

Exempt motor carriers would be required to notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while under this exemption. The notification must include the following information:

a. Date of the accident,

b. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,

c. Driver's name and driver's license number,

d. Vehicle number and State license number,

e. Number of individuals suffering physical injury,

f. Number of fatalities,

g. The police-reported cause of the accident,

h. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations, and

i. The total driving time and the total on-duty time of the CMV driver at the time of the accident.

Termination

The FMCSA does not believe the motor carriers and drivers covered by this exemption, if granted, will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions. Exempt motor carriers and drivers would be subject to FMCSA monitoring while operating under this exemption.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on the APA's requested exemption from the requirements of 49 CFR 395.3(a)(2). The FMCSA will review all comments received and determine whether approval of the exemption is consistent with the requirements of 49 U.S.C. 31315.

Interested parties or organizations possessing information that would show that any or all of these APA member-companies are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any information submitted and, if safety is being compromised or if the continuation of the exemption is inconsistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will immediately take steps to revoke the exemption of the company or companies and drivers in question.

Issued on: April 30, 2013.

Larry W. Minor,

Associate Administrator for Policy.

APPENDIX TO NOTICE OF APPLICATION FOR RENEWAL OF AMERICAN PYROTECHNICS ASSOCIATION (APA) EXEMPTION FROM THE 14-HOUR HOS RULE DURING 2013 AND 2014 INDEPENDENCE DAY CELEBRATIONS FOR 48 MOTOR CARRIERS

Motor carrier	Street address	City, state & zip code	DOT No.
1. Alonzo Fireworks Display, Inc	846 Stillwater Bridge Rd	Schaghticoke, NY 12154	420639
2. American Fireworks Company	7041 Darrow Road	Hudson, OH 44236	103972
3. AM Pyrotechnics, LLC	2429 East 535th Rd	Buffalo, MO 65622	1034961
4. Arthur Rozzi Pyrotechnics	6607 Red Hawk Ct	Maineville, OH 45039	2008107
5. Atlas Enterprises Inc	6601 Nine Mile Azle Rd	Fort Worth, TX 76135	0116910
6. B.J. Alan Company	555 Martin Luther King, Jr Blvd.	Youngstown, OH 44502–1102	262140
7. Cartwright Fireworks, Inc	1608 Keely Road	Franklin, PA 16323	882283
8. Central States Fireworks, Inc	18034 Kincaid Street	Athens, IL 62613	1022659
9. Colonial Fireworks Company	5225 Telegraph Road	Toledo, OH 43612	177274
10. East Coast Pyrotechnics, Inc	4652 Catawba River Rd	Catawba, SC 29704	545033
11. Entertainment Fireworks, Inc	13313 Reeder Road SW	Tenino, WA 98589	680942
12. Falcon Fireworks	3411 Courthouse Road	Guyton, GA 31312	1037954
13. Fireworks & Stage FX America	12650 Hwy 67S. Suite B	Lakeside, CA 92040	908304
14. Fireworks by Grucci, Inc	1 Grucci Lane	Brookhaven, NY 11719	324490
15. Fireworks Extravaganza	174 Route 17 North	Rochelle Park, NJ 07662	2064141
16. Fireworks West Internationale	910 North 3200 West	Logan, UT 84321	245423
17. Garden State Fireworks, Inc	383 Carlton Road	Millington, NJ 07946	435878
18. Gateway Fireworks Displays	P.O. Box 39327	St Louis, MO 63139	1325301
19. Great Lakes Fireworks	24805 Marine	Eastpointe, MI 48021	1011216
20. Hamburg Fireworks Display Inc	2240 Horns Mill Road SE	Lancaster, OH	395079
21. Hi-Tech FX, LLC	18060 170th Ave	Yarmouth, IA 52660	1549055
22. Hollywood Pyrotechnics, Inc	1567 Antler Point	Eagan, MN 55122	1061068
23. J&M Displays, Inc	18064 170th Ave	Yarmouth, IA 52660	377461
24. Kellner's Fireworks Inc	478 Old Rte 8	Harrisville, PA	481553
25. Lantis Productions dba Lantis Fireworks and Lasers	799 N. 18150 W.	Fairfield, UT 84013	195428
26. Legion Fireworks Co., Inc	10 Legion Lane	Wappingers Falls, NY 12590	554391

APPENDIX TO NOTICE OF APPLICATION FOR RENEWAL OF AMERICAN PYROTECHNICS ASSOCIATION (APA) EXEMPTION FROM THE 14-HOUR HOS RULE DURING 2013 AND 2014 INDEPENDENCE DAY CELEBRATIONS FOR 48 MOTOR CARRIERS—Continued

Motor carrier	Street address	City, state & zip code	DOT No.
27. Mad Bomber/Planet Productions	PO Box 294, 3999 Hupp Road R31.	Kingsbury, IN 46345	777176
28. Precocious Pyrotechnics, Inc	4420–278th Ave NW	Belgrade, MN 56312	435931
29. Pyro Engineering Inc., dba/Bay Fireworks	400 Broadhollow Rd. Ste #3	Farmindale, NY 11735	530262
30. Pyro Shows Inc	701 W. Central Ave	LaFollette, TN 37766	456818
31. Pyro Spectacluars, Inc	3196 N Locust Ave	Rialto, CA 92376	029329
32. Pyro Spectaculars North, Inc	5301 Lang Avenue	McClellan, CA 95652	1671438
33. Pyrotechnic Display, Inc	8450 W. St. Francis Rd	Frankfort, IL 60423	1929883
34. Pyrotecnico (S. Vitale Pyrotechnic Industries, Inc.)	302 Wilson Rd	New Castle, PA 16105	526749
35. Pyrotecnico, LLC	60 West Ct	Mandeville, LA 70471	548303
36. Pyrotecnico FX	6965 Speedway Blvd. Suite 115.	Las Vegas, NV 89115	1610728
37. Rainbow Fireworks, Inc	76 Plum Ave	Inman, KS 67546	1139643
38. RES Specialty Pyrotechnics	21595 286th St	Belle Plaine, MN 56011	523981
39. Rozzi's Famous Fireworks, Inc	11605 North Lebanon Rd	Loveland, OH 45140	0483686
40. Skyworks, Ltd	13513 W. Carrier Rd	Carrier, OK 73727	1421047
41. Spielbauer Fireworks Co, Inc	220 Roselawn Blvd	Green Bay, WI 54301	046479
42. Stonebraker-Rocky Mountain Fireworks Co	5650 Lowell Blvd, Unit E	Denver, CO 80221	0029845
43. Vermont Fireworks Co., Inc./Northstar Fireworks Co., Inc	2235 Vermont Route 14 South	East Montpelier, VT 05651	310632
44. Western Display Fireworks, Ltd	10946 S. New Era Rd	Canby, OR 97013	498941
45. Western Enterprises, Inc	PO Box 160	Carrier, OK 73727	203517
46. Western Fireworks, Inc	14592 Ottaway Road NE	Aurora, OR 97002	838585
47. Wolverine Fireworks Display, Inc	205 W Seidlers	Kawkawlin, MI	376857
48. Zambelli Fireworks MFG, Co., Inc	PO Box 1463	New Castle, PA 16103	033167

APPENDIX TO NOTICE OF APPLICATION FOR RENEWAL OF AMERICAN PYROTECHNICS ASSOCIATION EXEMPTION FROM THE 14-HOUR HOS RULE DURING 2013 AND 2014 INDEPENDENCE DAY CELEBRATIONS FOR 10 MOTOR CARRIERS NOT PREVIOUSLY EXEMPTED

Motor carrier	Street address	City, state & zip code	DOT No.
1. American Fireworks Display, LLC	P.O. Box 980	Oxford, NY 13830	2115608
2. Atlas Pyrovision Productions, Inc	136 Old Sharon Rd	Jaffrey, NH 03452	789777
3. Hawaii Explosives & Pyrotechnics, Inc	17–7850 N. Kulani Road	Mountain View, HI 96771	1375918
4. Homeland Fireworks, Inc	P.O. Box 7	Jamieson, OR 97909	1377525
5. Island Fireworks Co., Inc	N1597 County Rd VV	Hager City, WI 54014	414583
6. Lantis Fireworks, Inc	130 Sodrac Dr., Box 229	N. Sioux City, SD 57049	534052
7. Martin & Ware Inc. dba Pyro City Maine & Central Maine Pyrotechnics.	P.P. Box 322	Hallowell, ME 04347	734974
8. Melrose Pyrotechnics, Inc	1 Kingsbury Industrial Park	Kingsbury, IN 46345	434586
9. Starfire Corporation	682 Cole Road	Carrolltown, PA 15722	554645
10. Young Explosives Corp	P.O. Box 18653	Rochester, NY 14618	450304

[FR Doc. 2013–10737 Filed 5–6–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2013–0002–N–10]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collections and their expected burdens. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on February 20, 2013.

DATES: Comments must be submitted on or before June 6, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 20, 2013, FRA published a 60-day notice in

the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. *See* 78 FR 11948. FRA received no comments after issuing this notice. Accordingly, these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Qualification and Certification of Locomotive Engineers.

OMB Control Number: 2130–0533.

Type of Request: Extension with change of a currently approved collection.

Affected Public: Railroads.

Form(s): None.

Abstract: Section 4 of the Rail Safety Improvement Act of 1988 (RSIA), Public Law 100–342, 102 Stat. 624 (June 22, 1988), later amended and re-codified by Public Law 103–272, 108 Stat. 874 (July 5, 1994), required that FRA issue regulations to establish any necessary program for certifying or licensing locomotive engineers. The collection of information is used by FRA to ensure that railroads employ and properly train qualified individuals as locomotive engineers and designated supervisors of locomotive engineers. The collection of information is also used by FRA to verify that railroads have established required certification programs for locomotive engineers and that these programs fully conform to the standards specified in the regulation.

Annual Estimated Burden: 272,672 hours

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on May 1, 2013.

Rebecca Pennington,

Chief Financial Officer, Federal Railroad Administration.

[FR Doc. 2013–10784 Filed 5–6–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning existing regulations, 26 CFR 31.6001–1, Records in general; 26 CFR 31.6001–2 Additional Records under FICA; 26 CFR 31.6001–3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001–5, Additional records in connection with collection of income tax at source on wages; 26 CFR 31.6001–6, Notice by District Director requiring returns, statements, or the keeping of records.

DATES: Written comments should be received on or before July 8, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulation sections should be directed to Gerald J. Shields, (202) 927–4374, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Gerald.J.Shields@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: 26 CFR 31.6001–1, Records in general; 26 CFR 31.6001–2, Additional Records under FICA; 26 CFR 31.6001–3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001–5, Additional records in connection with collection of income tax at source on wages; 26 CFR 31.6001–6, Notice by District Director requiring returns, statements, or the keeping of records.

OMB Number: 1545–0798.

Abstract: Internal Revenue Code section 6001 requires, in part, that every person liable for tax, or for the collection of that tax must keep such records and comply with such rules and regulations as the Secretary may from time to time prescribe. The recordkeeping requirements under 26 CRF 31.6001 have special application to employment taxes (and to employers) and are needed to ensure proper compliance with the Code. Upon examination, the records are needed by the taxpayer to establish the employment tax liability claimed on any tax return.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Recordkeepers: 5,676,263.

Estimated Time per Recordkeeper: 5 hours, 20 minutes.

Estimated Total Annual Recordkeeping Hours: 30,273,950.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information

displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. 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.

Approved: April 18, 2013.

Yvette B. Lawrence,

IRS Tax Supervisory Analyst, IRS Reports Clearance Officer.

[FR Doc. 2013–10731 Filed 5–6–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6627

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 6627, Environmental Taxes.

DATES: Written comments should be received on or before July 8, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 927–4374, or through the Internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Environmental Taxes.

OMB Number: 1545–0245.

Form Number: 6627.

Abstract: Internal Revenue Code sections 4681 and 4682 impose a tax on ozone-depleting chemicals (ODCs) and on imported products containing ODCs. Form 6627 is used to compute the environmental tax on ODCs and on imported products that use ODCs as materials in the manufacture or production of the product. It is also used to compute the floor stocks tax on ODCs.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 3,394.

Estimated Time Per Respondent: 3 hours; 52 minutes.

Estimated Total Annual Burden Hours: 13,084.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. 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.

Approved: April 18, 2013.

Yvette B. Lawrence,

Supervisory Tax Analyst, IRS Reports Clearance Officer.

[FR Doc. 2013–10729 Filed 5–6–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8819

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 8819, Dollar Election Under Section 985.

DATES: Written comments should be received on or before July 8, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, LL.M., at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 927–4374, or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Dollar Election Under Section 985.

OMB Number: 1545–1189.

Form Number: 8819.

Abstract: Form 8819 is filed by U.S. and foreign businesses to elect the U.S.

dollar as their functional currency or as the functional currency of their controlled entities. The IRS uses Form 8819 to determine if the election is properly made.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 6 hours, 26 minutes.

Estimated Total Annual Burden Hours: 3,220.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. 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.

Approved: April 18, 2013.

Yvette B. Lawrence,

Supervisory Tax Analyst, IRS Reports Clearance Officer.

[FR Doc. 2013–10736 Filed 5–6–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Matching Program.

SUMMARY: Pursuant to section 552a(e)(12) of the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct of the Internal Revenue Service Disclosure of Information to Federal, State and Local Agencies (DIFSLA) Computer Matching Program.

DATES: *Effective Date:* This notice will be effective June 6, 2013.

ADDRESSES: Inquiries may be mailed to the Internal Revenue Service; Privacy, Governmental Liaison and Disclosure; Data Services; ATTN: Debbie Asturias, Program Manager, 24000 Avila Road, MS 2205, Laguna Niguel, CA 92677.

FOR FURTHER INFORMATION CONTACT: Internal Revenue Service; Privacy, Governmental Liaison and Disclosure; Data Services; ATTN: Debbie Asturias, Program Manager, 24000 Avila Road, MS 2205, Laguna Niguel, CA 92677. Telephone: (949) 389–4401 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The notice of the matching program was last published at 76 FR 24564–24565 (May 2, 2011). Members of the public desiring specific information concerning an ongoing matching activity may request a copy of the applicable computer matching agreement at the address provided above.

Purpose

The purpose of this program is to prevent or reduce fraud and abuse in certain federally assisted benefit programs while protecting the privacy interest of the subjects of the match. Information is disclosed by the Internal Revenue Service only for the purpose of, and to the extent necessary in, determining eligibility for, and/or the correct amount of, benefits for individuals applying for or receiving certain benefit payments.

Authority

In accordance with section 6103(l)(7) of the Internal Revenue Code (IRC), the Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any federal, state or local agency administering a program listed below:

(i) A state program funded under part A of Title IV of the Social Security Act;

(ii) Medical assistance provided under a state plan approved under Title XIX of the Social Security Act, or subsidies provided under section 1860D–14 of such Act;

(iii) Supplemental security income benefits provided under Title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93–66);

(iv) Any benefits provided under a state plan approved under Title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

(v) Unemployment compensation provided under a state law described in section 3304 of the IRC:

(vi) Assistance provided under the Food and Nutrition Act of 2008;

(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93–66);

(viii)(I) Any needs-based pension provided under Chapter 15 of Title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

(viii)(II) Parents' dependency and indemnity compensation provided under section 1315 of Title 38, United States Code;

(viii)(III) Health-care services furnished under sections 1710(a)(2)(G), 1710(a)(3), and 1710(b) of such title.

Name of Recipient Agency: Internal Revenue Service.

Categories of records covered in the match: Information returns (e.g., Forms 1099–DIV, 1099–INT and W–2G) filed by payers of unearned income in the Internal Revenue Service Information Returns Master File (IRMF) (Treasury/IRS 22.061).

Name of source agencies and categories of records covered in the match:

A. Federal agencies expected to participate and their Privacy Act systems of records are:

1. Department of Veterans Affairs: Veterans Benefits Administration—Compensation, Pension and Education and Rehabilitation Records-VA, 58 VA 21/22; and Veterans Health Administration—Healthcare Eligibility Records, 89VA19;

2. Social Security Administration, Office of Systems Requirements—Supplemental Security Income Record

and Special Veterans Benefits, (60–0103)

B. State agencies expected to participate using non-federal systems of records are:

1. Alabama Department of Human Resources
2. Alabama Medicaid Agency
3. Alaska Department of Health & Social Services
4. Arizona Department of Economic Security
5. Arkansas Department of Human Services
6. California Department of Social Services
7. Colorado Department of Human Services
8. Connecticut Department of Social Services
9. Delaware Department of Health & Social Services
10. D.C. Department of Human Services
11. Florida Department of Children & Families
12. Georgia Department of Human Resources
13. Hawaii Department of Human Services
14. Idaho Department of Health/Welfare
15. Illinois Department of Human Services
16. Indiana Family & Social Services Administration
17. Iowa Department of Human Services
18. Kansas Department of Social/Rehab Services
19. Kentucky Cabinet for Health and Family Services
20. Louisiana Department of Health & Hospitals
21. Louisiana Department of Children and Family Services
22. Maine Department of Human Services
23. Maryland Department of Human Services
24. Massachusetts Department of Transitional Assistance
25. Michigan Department of Human Services
26. Minnesota Department of Human Services
27. Mississippi Department of Human Services
28. Mississippi Division of Medicaid
29. Missouri Department of Social Services
30. Montana Department of Public Health & Human Services
31. Nebraska Department of Health & Human Services
32. Nevada Department of Health and Human Services
33. New Hampshire Department of Health & Human Services
34. New Jersey Department of Human Services
35. New Mexico Human Services Department
36. New York Office of Temporary & Disability Assistance
37. North Carolina Department of Health & Human Services
38. North Dakota Department of Human Services
39. Ohio Department of Job and Family Services
40. Oklahoma Department of Human Services
41. Oregon Department of Human Resources
42. Pennsylvania Department of Public Welfare
43. Rhode Island Department of Human Services
44. South Carolina Department of Social Services
45. South Dakota Department of Social Services
46. Tennessee Department of Human Services
47. Texas Health and Human Services Commission
48. Utah Department of Workforce Services
49. Vermont Department for Children and Families
50. Virginia Department of Social Services
51. Washington Department of Social & Health Services
52. West Virginia Department of Health and Human Services
53. Wisconsin Department of Health Services
54. Wyoming Department of Family Services

Beginning and completion dates: The matches are conducted on an ongoing basis in accordance with the terms of the computer matching agreement in effect with each participant as approved by the applicable Data Integrity Board(s). The term of these agreements is expected to cover the 18-month period, July 1, 2013, through December 31, 2014. Ninety days prior to expiration of the agreement, the parties to the agreement may request a 12-month extension in accordance with 5 U.S.C. 552a(o).

Dated: May 1, 2013.

Veronica Marco,

Acting Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2013–10709 Filed 5–6–13; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—May 9, 2013, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: William A. Reinsch, Chairman of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on May 9, 2013, ''Trends and Implications of Chinese Investment in the United States.''

Background: This is the fifth public hearing the Commission will hold during its 2013 report cycle to collect input from academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. This hearing will explore patterns of Chinese investment in the U.S. and the implications of that investment for U.S. policymakers.

The hearing will be co-chaired by Commissioners Carolyn Bartholomew and Larry Wortzel. Any interested party may file a written statement by May 9, 2013, by mailing to the contact below. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Location, Date and Time: Room H–309 The U.S. Capitol. Thursday, May 9, 2013, 9:00 a.m.–12:30 p.m. Eastern Time. A detailed agenda for the hearing is posted to the Commission's Web site at *www.uscc.gov*. Also, please check our Web site for possible changes to the hearing schedule. Reservations are not required to attend the hearing.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Reed Eckhold, 444 North Capitol Street NW., Suite 602, Washington DC 20001; phone: 202–624–1496, or via email at *reckhold@uscc.gov*. Reservations are not required to attend the hearing.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: April 30, 2013.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2013–10701 Filed 5–6–13; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Report: Strategies for Serving Our Women Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Final notice.

SUMMARY: On May 14, 2012, the Department of Veterans Affairs (VA) published a notice in the **Federal Register** inviting public comment on the Draft Strategy Report (DSR) titled, *Strategies for Serving Our Women Veterans.* This document responds to the public comments received and affirms as final, with two identified changes, to the DSR.

FOR FURTHER INFORMATION CONTACT: Irene Trowell-Harris, RN, Ed.D., Director, Center for Women Veterans, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420.

SUPPLEMENTARY INFORMATION: In a notice published on May 14, 2012 [FR Vol. 77, No. 93], VA presented its DSR, *Strategies for Serving Our Women Veterans.* VA is committed to transformation, with the aim of becoming an increasingly Veteran-centric, results-driven, and forward-looking organization. In line with this commitment, Secretary Shinseki called for the formation of a Women Veterans Task Force (WVTF) in July 2011, to be charged with developing a comprehensive VA action plan for resolving gaps in how our organization serves women Veterans. As an interim deliverable, WVTF developed this DSR to solicit stakeholder feedback on its initial findings and recommendations. Following public comments to this draft, WVTF will develop a detailed operating plan for implementation.

We received 32 comments on the DSR through the **Federal Register**. The majority of comments involved one or more of the following topics: Veterans Benefits Administration (VBA) disability ratings policies; recommendations for collaboration between Department of Defense (DoD) and VA in outreach to women Veterans, including outreach prior to separation from service; need for DoD to enhance its efforts in military sexual trauma (MST) prevention; privacy in regard to MST treatment and other issues related to MST treatment, including recommended change in questions asked during National Security Clearance process; need for full-time women Veterans coordinators; need for expanded child-care; need for specific treatment for homeless women Veterans; importance of culture change across VA with regard to women Veterans; disparities in care for women Veterans; need for specific goals, metrics, and accountability to ensure successful implementation of the recommendations in the draft report; need for more research and data; concerns about how the Task Force was constituted; and opportunities for collaboration with non-governmental organizations (NGO) and other Federal and state agencies.

Other comments related to gaps and recommendations laid out in the strategy report, editorial corrections, and citations. One included a report of alleged criminal activity (identity theft) at a specific VA facility. Based on subject matter, most of the comments can be grouped into several categories: VA claims and benefits; collaboration for proactive outreach to women Veterans; MST; access to VA services (access to VA health care); homeless women Veterans; culture change; data; and WVTF integrity and accountability. We have organized our discussion of the comments accordingly.

Comments Concerning VA Claims and Benefits

There were a number of comments regarding VA's disability ratings policies and procedures and the length of time it takes to decide a case. One commenter expressed concern that her claim was not properly rated because she suffered from a difficult-to- diagnose disease. Others expressed that VA's disability rating system is still largely intact despite not having been updated in 50 years, and that major renovations are needed for today's medical evaluations. These comments are beyond the scope of this particular report. We, therefore, make no changes to the DSR based on those comments.

The majority of commenters believed that VA should more closely collaborate with DoD in providing transition services to women Veterans. One commenter believed that DoD and VA need to collaborate consistently and more comprehensively to achieve outreach and education goals as described in the DSR.

Multiple commenters believed that Servicemembers need to be provided with information regarding VA services and benefits for which they may be entitled or eligible at the time of their discharge or release from active duty or service. One commenter believed it essential that VA fully recognizes and reaches out to nonprofits that are conducting important work in helping women Veterans not only to secure employment but also to have fulfilling long-term careers in civilian life, and the commenter recommended that VA conduct an external mapping of the services being provided by nonprofit and community organizations for women Veterans. Other comments concerned opportunities for collaboration with NGOs, local community organizations, and other Federal agencies to provide training, services, outreach, research, and opportunities for women Veterans. These comments are outside the scope of this strategy report; we, therefore, do not make any changes to the DSR based on those comments.

Military Sexual Trauma

One commenter expressed concern regarding question #21 of the National Security Clearance Questionnaire that asks about mental health treatment. The commenter suggested that treatment for sexual assault counseling be excluded from disclosure and that VA advocate changing the question across the Federal Government. No changes to the DSR are made based on this comment, which is beyond the scope of the report.

Many commenters recounted personal experiences regarding sexual assault and MST they experienced. They also commented on DoD and VA's processes for treatment and benefits for those who experienced MST, the lack of VBA Women Veteran Coordinators' contact information at Veteran outreach events, and a lack of interest—both in DoD and VA—in minimizing the re-traumatization of women Veterans reporting or filing claims for MST.

These comments are beyond the scope of this report. As such, we do not make any changes to the DSR.

Access to VA

One commenter commended VA's efforts pertaining to delivery of services and benefits to women Veterans through the Center for Women Veterans, Women Veterans Health Strategic Health Care Group, Office of Mental Health Services, and women Veterans coordinators. The commenter expressed that proposed efforts need to be monitored and tracked in a comprehensive way to ensure that, together, they are succeeding in meeting the goals and outcomes set by VA. The commenter further suggested that VA ensure that there is no duplication of effort and that all programs and offices work together. The final suggestion of

the commenter is that VA may want to consider streamlining aspects of these efforts to make sure they are coordinated, surveyed, and reviewed regularly for their ongoing success. We thank the commenter for these thoughtful comments (and noted support of VA women Veterans programs) but conclude that we need not make any changes to the DSR based on them.

Other comments involved requiring full-time availability of certain staff that provides direct assistance to women Veterans such as the women Veterans coordinators at regional offices; suggesting that employees should be Veterans and be able to relate to other women Veterans; ensuring that female nurse practitioners or doctors should be on full-time staff at women's health clinics; and adding child-care options to women's clinics. Another commenter wished to clarify that women do not decline services offered by VA but simply do not know about the range of services offered, making the outreach goal (p. 15 of the DSR) vital. The commenter recommended that VA add an objective defining the best channels through which women Veterans can and will receive messages.

We thank all of the commenters for taking the time to respond and submitting their comments and suggestions. Because these comments go beyond the scope and purpose of the DSR, we respectfully make no changes to the report as a result of those comments. We will, however, forward these comments to the responsible program offices to help inform their current efforts.

Homeless Women Veterans

One commenter addressed the challenges homeless women Veterans may face in getting assistance, especially when they have children. The commenter stressed the importance of focusing on the mental health of these particular women Veterans since they have the added stress of being responsible for dependents thus further compounding their desperate situation. To address this, the commenter suggested the following: Require homeless Veterans coordinators to network with counterparts in private and other public sectors; require VA to identify or acquire more transitional housing for homeless women Veterans–for those who are suffering with mental health issues and substance abuse, as well as those who are not; provide transitional housing programs that provide funding for providers/stakeholders that allow children of various ages and gender to be housed with their mother. In addition, the commenter states that such transitional housing programs should offer child-care options to enable the Veteran to attend college or to secure a job that will lead her to self-sufficiency.

We thank the commenter for these comments. Access to care and services for homeless women Veterans is a focus of the findings of the report. However, these specific recommendations go beyond the scope of the report. We respectfully decline to make changes to the DSR. We will, however, forward these comments to appropriate program offices for their consideration.

Culture Change

One commenter stressed the importance of culture change in VA to improve women Veterans' total experience using VA. Suggestions for improvement included instituting a national campaign supported by every level of leadership and all VA employees and updating the written regulations to legitimize cultural changes that are adopted. We acknowledge the concerns of the commenter and note that the core concern is already reflected in the DSR; therefore, no changes are required based on this comment.

Another commenter shared her impressions of VA staff's attitudes about women Veterans at a particular medical center, which she suggested has led to disparities in care for women Veterans. Examples provided include doctors and medical staff providing different treatment for women due to a bias that women Veterans are more emotional than male Veterans, and staff appearing uncomfortable with providing emergent care for gender-specific problems. There was also mention of the lack of prosthetics designed for women, as well as suggestions to increase depression-screening for female Veterans and to identify innovative approaches and best practices to reduce the perceived disparities in care at the medical center. We thank the commenter for these comments. Finding they go beyond the scope and purpose of the report, however, we make no changes to the DSR.

Data

There were comments concerning a need for more research and data to fully understand the challenges that women Veterans face and to identify how to adequately address them. A commenter expressed concern that one key area of missing data is information from employers on how they meet the needs of women Veterans, and what employers need to know in order to hire and successfully integrate women Veterans into their businesses. The commenter also suggested that VA consider the research already done by private and nonprofit organizations.

We thank these commenters for taking the time to comment. Although we decline to make any changes to the DSR based on those comments, we found these comments informing and will consider them as we develop our Operating Plan.

WVTF Integrity and Accountability

Several comments concerned the composition of WVTF and the methods that will be used to measure the effectiveness of WVTF at carrying out its charge. Some questioned how the members of WVTF were selected and if men were included. Specifically, the commenter stated that WVTF needs to establish outcomes that indicate success in meeting established objectives and to develop metrics that adequately assess progress toward the desired outcomes. Others believed the Task Force should have included community women Veterans service providers to obtain a broader view of these issues from experts (and resources) at the grass roots level. We thank the commenters for their comments. Comments were solicited on the report findings and recommendations. Concerns related to the composition of the Task Force are beyond the scope of the report. We respectfully decline to make any changes based on these comments.

General Comments

A majority of the comments recounted very specific and personal experiences and impressions of women Veterans or their family members; asked questions about the data presented; asked specific questions about medical treatment; requested a comparison with other Veterans populations; and made requests for timelines on deliverables identified in the strategic plan. Other comments expressed concerns about specific women Veteran subpopulations, such as the women who served in Fort McClellan and those who experienced certain ailments. One commenter conducted an informal survey on a VA medical center's accessibility and services and provided results of her personal assessment. Various commenters provided their personal impressions of VA facilities where they receive treatment and services. We thank these commenters for their comments. Finding they go beyond the scope and purpose of the DSR, we respectfully decline to make any changes based on the comments.

One comment involved the role the Center for Women Veterans has in VA's administration of services to women Veterans. The commenter asserted that VA needs to re-evaluate the Center for Women Veterans' authority—which the commenter believed has diminished over time—to speak for women Veterans across the programs of VA. The commenter expressed that the organizational chart should indicate that the Director of the Center for Women Veterans reports directly to the Secretary. It was suggested that such placement would reflect the Department's commitment to, and understanding of, the level of importance and contributions of women Veterans**.**

Although we will not amend the DSR based on these comments (which suggest changes beyond the scope and purpose of the report), we found these comments informing and will consider them as we develop our Operating Plan.

Employment and Training

One commenter found the objectives throughout the DSR to be well-balanced insomuch as they are both strategic and measurable. There was a suggestion that VA work with organizations with expertise in providing employment mentoring and training for women Servicemembers to obtain those organizations' expertise to better assist women Veterans with the same sort of services. We thank the commenter for taking the time to comment and for the commenter's support of this DSR. We make no changes to the report based on these comments.

Another commenter concurs with the Task Force's goal to increase employment and retention of women Veterans by leveraging public and private sector resources and improving synergy, integration, and collaboration. The commenter recommended that VA pursue collaborative efforts with states, encourage the sharing of best practices, and challenge regional chambers of commerce to host Veterans hiring conferences in the coming year. The commenter also concurs with the Task Force's goal to enhance marketability and professional development of women Veterans through career development/workforce training, noting their receipt of specialized job training and/or career or professional credentials is critical to their future employment success. The commenter encouraged institutions providing this training—community colleges and universities—to provide a supportive environment for Veterans. The commenter also noted that support services are critically needed to serve younger women Veterans, especially those who experience multiple deployments. The commenter recommended that VA expand the number of VetSuccess Programs on campus program sites to increase the number of supportive campus environments that can help ensure women Veterans achieve their educational goals.

We appreciate the supportive comments and thank the commenters. With respect to the suggested additional recommendations, we do not make any changes to the report because they go beyond the scope and purpose of the DSR.

Data Collection and Evaluation of Services

One commenter recommended that VA ensure that its indicators identify root-causes of identified problems and track women Veterans across ''the life-cycle of service.''

In conclusion, many comments that we received provide valuable insights that we will take into account in our future implementation efforts particularly with respect to conducting a detailed analysis of needs. Other comments recommend resources that the implementing VA program offices can evaluate for use in those efforts.

Comments that we forward to the appropriate lead Administration (i.e., the Veterans Health Administration (VHA), VBA, or the National Cemetery Administration) will in turn be forwarded, as appropriate, to that Administration's subordinate offices for consideration generally or in connection with current or planned program initiatives within VA to prevent duplication of efforts. For example, comments that we received relating to homelessness among Veterans in the Greater Los Angeles area will be forwarded first to VHA and, subsequently, to the leaders of the VA Greater Los Angeles Healthcare System.

Comments related to DoD and its programs or to outside entities are not within VA's purview to address.

The comments overwhelmingly affirm the intent and recommendations of the DSR and particularly the need for urgent, systemic, and sustained action to address the gaps in services and benefits identified in the report.

We, therefore, make no changes to the DSR based on the comments received, except for the following two editorial changes:

- On page 4, a citation will be added for the survey mentioned in the following statement: ''By 2009, about 30 percent of women Veterans surveyed did not think they were eligible for VA benefits.'' The citation to be added is as follows: National Survey of Women Veterans. Women Veterans Health Strategic Healthcare Group and VA HSR&D SDR–08–270. 2008–2009.
- On page 7, the following sentence will be deleted due to a lack of a definitive reference: ''In a survey, VA found that nearly a third of Veterans were interested in childcare services and more than 10 percent had to cancel or reschedule VA appointments due to lack of childcare.''

Conclusion

For the foregoing reasons, we adopt the DSR with two changes.

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 30, 2013 for publication.

Dated: April 30, 2013.

Robert C. McFetridge,

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

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