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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, June 11, 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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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1000; Directorate Identifier 2012–NM–065–AD; Amendment 39–17460; AD 2013–10–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A300 B4–601, B4–603, B4–620, B4–605R, and B4–622R airplanes. This AD was prompted by a report that the door frame shells of passenger doors 2 and 4 may not have sufficient structural strength to enable the airplane to operate safely. This AD requires reinforcing the door frame shells of passenger doors 2 and 4 on both sides of the fuselage. We are issuing this AD to prevent structural failure of the door frame shells, which could result in in-flight decompression of the airplane and consequent injury to passengers.

DATES: This AD becomes effective July 5, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 5, 2013.

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on September 24, 2012 (77 FR 58785). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

> As a result of the Extended Service Goal 2 exercise (ESG2) it was shown that the door frame shells of passenger doors 2 and 4 (both sides of the aeroplane) may not have sufficient structural strength to enable the aeroplane to operate safety beyond ESG1 (Extended Service Goal 1 equal to 42,500 Flight Cycles—FC or 89,000 Flight Hours—FH) and up to ESG2 (Extended Service Goal 2 equal to 51,000 FC or 89,000 FH) limits.
>
> This condition, if not corrected, could lead to structural failure of the affected door shells, possibly resulting in in-flight decompression of the aeroplane and consequent injury to occupants.
>
> For the reasons stated above, this [European Aviation Safety Agency (EASA)] AD requires the reinforcement at door frame shells of passenger doors 2 and 4.

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

Comments

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

Request for a Copy of the Service Information

FedEx requested that copies of Airbus Service Bulletin A300–53–6170, dated May 16, 2011, be provided to understand the full intent of the modification. FedEx stated that copies of Airbus Service Bulletin A300–53–6170, dated May 16, 2011, are not available to operators without paying for the modification kit for ESG–2 operations.

As stated in the NPRM (77 FR 58785, September 24, 2012), copies of the referenced service information may be reviewed at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. No change has been made to the AD in this regard. After publication of the final rule, you may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Request for Exception for Certain Passenger Doors

FedEx requested an exception for the passenger door 2 on airplanes modified from passenger to freighter per supplemental type certificate (STC) ST01431NY* (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/9F0C4BC1162AA3CE862571B2005F355C?OpenDocument&Highlight=st01431ny*). FedEx stated that the passenger door 2 has been removed from the modified airplanes to install the upper deck cargo door in these positions. FedEx noted that applicability to the remaining door 4 would remain in effect.

We disagree with the commenter's request. Operators should work with the STC holder to evaluate and determine what actions might be necessary to address the unsafe condition if it exists. Operators may request approval of an alternative method of compliance to address this evaluation. No change has been made to the AD in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 58785, September 24, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 58785, September 24, 2012).

Costs of Compliance

We estimate that this AD will affect 124 products of U.S. registry. We also estimate that it will take about 400 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $10,000

per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $5,456,000, or $44,000 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 58785, September 24, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–10–07 Airbus: Amendment 39–17460. Docket No. FAA–2012–1000; Directorate Identifier 2012–NM–065–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 5, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, B4–605R, and B4–622R airplanes; certificated in any category; all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report that the door frame shells of passenger doors 2 and 4 may not have sufficient structural strength to enable the airplane to operate safely. We are issuing this AD to prevent structural failure of the door frame shells, which could result in in-flight decompression of the airplane and consequent injury to passengers.

(f) Compliance

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

(g) Reinforcement

Before the accumulation of 42,500 total flight cycles or within 2,000 flight cycles after the effective date of this AD, whichever occurs later: Do the actions specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For Model A300 B4–622R airplanes: Reinforce the door frame shells of passenger doors 2 and 4 on both sides of the fuselage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6170, dated May 16, 2011.

(2) For Model A300 B4–601, B4–603, B4–620, and B4–605R airplanes: Reinforce the door frame shells of passenger doors 2 and 4 on both sides of the fuselage, using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent).

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9–ANM–116–AMOC–REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(i) Related Information

Refer to MCAI EASA Airworthiness Directive 2012–0044, dated March 23, 2012; and Airbus Service Bulletin A300–53–6170, dated May 16, 2011; for related information.

(j) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A300–53–6170, dated May 16, 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness

Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on May 16, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–12515 Filed 5–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1162; Directorate Identifier 2012–NM–002–AD; Amendment 39–17459; AD 2013–10–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A330–200 Freighter, A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. This AD was prompted by several reports of a burning smell and/or smoke in the cockpit during cruise phase leading, in some cases, to diversion to alternate airports. This AD requires an inspection to identify the installed windshields and replacement of any affected windshield. We are issuing this AD to prevent significantly increased workload for the flightcrew, which could, under some flight phases and/or circumstances, constitute an unsafe condition.

DATES: This AD becomes effective July 5, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 5, 2013.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 7, 2012 (77 FR 66760). That NPRM proposed to correct an unsafe condition for the specified products. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0242, dated December 19, 2011 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

> Several operators have reported cases of burning smell and/or smoke in the cockpit during cruise phase leading in some cases to diversion.
>
> Findings have shown that the cause of these events is the burning of the Saint-Gobain Sully (SGS) windshield connector terminal block.
>
> This condition, if not corrected, could significantly increase the flight crew workload which would, under some flight phases and/or circumstances, constitute an unsafe condition.
>
> For the reasons described above, this [EASA] AD requires the identification of the installed windshields and replacement of the affected part.
>
> * * * * *

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

Revised Service Information

Since the NPRM (77 FR 66760, November 7, 2012) was published, we have received the following service information:

- Airbus Mandatory Service Bulletin A330–56–3009, Revision 02, including Appendix 01, dated February 8, 2012;
- Airbus Mandatory Service Bulletin A340–56–4008, Revision 01, including Appendix 01, dated February 8, 2012; and
- Airbus Mandatory Service Bulletin A340–56–5002, Revision 01, including Appendix 01, dated February 8, 2012.

We have determined that these service bulletins do not add any additional actions to those proposed in the NPRM. Therefore, we have revised paragraphs (g), (h), and (j) of this AD to refer to these service bulletins, and have revised paragraph (i) of this AD to provide credit for actions performed before the effective date of this AD using the previous revisions of those service bulletins.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received. The Air Line Pilots Association (ALPA) stated that it supports the NPRM (77 FR 66760, November 7, 2012).

Request To Revise Applicability

Airbus requested that the applicability stated in the NPRM (77 FR 66760, November 7, 2012) be revised to state the generic Model ''A330–200/–300'' and ''A340–500/–600'' series airplanes instead of the specific airplane models. Airbus stated that the actions of the NPRM are actually required for all the series airplanes instead of only the models stated in the NPRM.

We disagree. The models stated in paragraph (c) of the NPRM (77 FR 66760, November 7, 2012) correspond to the model and series airplanes validated by the FAA and identified in an FAA type certificate data sheet (TCDS). Some series airplanes that were identified in the MCAI are not listed on any FAA TCDS and cannot be imported and placed on the U.S. register until that model is validated and identified on an FAA TCDS. If a model identified in the MCAI is identified on an FAA TCDS in the future, we might consider additional rulemaking. We have not changed this AD in this regard.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 66760, November 7, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 66760, November 7, 2012).

Costs of Compliance

We estimate that this AD will affect 55 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $9,350, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 10 work-hours and require parts costing $0, for a cost of $850 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 66760, November 7, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–10–06 Airbus: Amendment 39–17459. Docket No. FAA–2012–1162; Directorate Identifier 2012–NM–002–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 5, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(2) Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 56, Windows.

(e) Reason

This AD was prompted by several reports of a burning smell and/or smoke in the cockpit during cruise phase leading, in some cases, to diversion to alternate airports. We are issuing this AD to prevent significantly increased workload for the flightcrew, which could, under some flight phases and/or circumstances, constitute an unsafe condition.

(f) Compliance

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

(g) Inspection

Within 1,200 flight hours after the effective date of this AD, inspect to identify the manufacturer, the part number, and the serial number of the left-hand (LH) and right-hand (RH) windshields installed on the airplane, in accordance with the Accomplishment Instructions of the applicable Airbus service information identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD. A review of airplane delivery or maintenance records is acceptable in lieu of this inspection if the manufacturer, part number, and serial number of the installed windshields can be conclusively determined from that review.

(1) For Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes: Airbus Mandatory Service Bulletin A330–56–3009, Revision 02, including Appendix 01, dated February 8, 2012.

(2) For Model A340–211, –212, –213, –311, –312, and –313 airplanes: Airbus Mandatory Service Bulletin A340–56–4008, Revision 01, including Appendix 01, dated February 8, 2012.

(3) For Model A340–541 and –642 airplanes: Airbus Mandatory Service Bulletin A340–56–5002, Revision 01, including Appendix 01, dated February 8, 2012.

(h) Replacement

If it is found, during the inspection required by paragraph (g) of this AD, that any installed LH or RH windshield was manufactured by Saint-Gobain Sully (SGS) and the part number and serial number are identified in the applicable Airbus service information identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD: Within 9 months or 1,200 flight hours after the effective date of this AD, whichever occurs first, replace all affected LH and RH windshields, in accordance with the Accomplishment Instructions of the applicable Airbus service information identified in paragraph (h)(1), (h)(2), or (h)(3) of this AD.

(1) For Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes: Airbus Mandatory Service Bulletin A330–56–3009, Revision 02, including Appendix 01, dated February 8, 2012.

(2) For Model A340–211, –212, –213, –311, –312, and –313 airplanes: Airbus Mandatory Service Bulletin A340–56–4008, Revision 01, including Appendix 01, dated February 8, 2012.

(3) For Model A340–541 and –642 airplanes: Airbus Mandatory Service Bulletin

A340–56–5002, Revision 01, including Appendix 01, dated February 8, 2012.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using the applicable service information identified in paragraphs (i)(1) through (i)(4) of this AD, which are not incorporated by reference in this AD.

(1) Airbus Service Bulletin A330–56–3009, dated May 4, 2010 (for Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes).

(2) Airbus Service Bulletin A330–56–3009, Revision 01, dated January 27, 2011 (for Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes).

(3) Airbus Service Bulletin A340–56–4008, dated May 4, 2010 (for Model A340–211, –212, –213, –311, –312, and –313 airplanes).

(4) Airbus Service Bulletin A340–56–5002, dated May 4, 2010 (for Model A340–541 and –642 airplanes).

(j) Parts Installation Limitation

As of the effective date of this AD, do not install on an airplane any affected windshield from SGS having a part number and serial number identified in the applicable service information identified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, unless a suffix ''U'' is present at the end of the serial number.

(1) For Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes: Airbus Mandatory Service Bulletin A330–56–3009, Revision 02, including Appendix 01, dated February 8, 2012.

(2) For Model A340–211, –212, –213, –311, –312, and –313 airplanes: Airbus Mandatory Service Bulletin A340–56–4008, Revision 01, including Appendix 01, dated February 8, 2012.

(3) For Model A340–541 and –642 airplanes: Airbus Mandatory Service Bulletin A340–56–5002, Revision 01, including Appendix 01, dated February 8, 2012.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information European Aviation Safety Agency Airworthiness Directive 2011–0242, dated December 19, 2011 (corrected February 15, 2012), and the service information identified in paragraphs (l)(1)(i) through (l)(1)(iii) of this AD, for related information.

(i) Airbus Mandatory Service Bulletin A330–56–3009, Revision 02, including Appendix 01, dated February 8, 2012.

(ii) Airbus Mandatory Service Bulletin A340–56–4008, Revision 01, including Appendix 01, dated February 8, 2012.

(iii) Airbus Mandatory Service Bulletin A340–56–5002, Revision 01, including Appendix 01, dated February 8, 2012.

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(m) Material Incorporated by Reference

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

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

(i) Airbus Mandatory Service Bulletin A330–56–3009, Revision 02, including Appendix 01, dated February 8, 2012.

(ii) Airbus Mandatory Service Bulletin A340–56–4008, Revision 01, including Appendix 01, dated February 8, 2012.

(iii) Airbus Mandatory Service Bulletin A340–56–5002, Revision 01, including Appendix 01, dated February 8, 2012.

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

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

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

Issued in Renton, Washington, on May 16, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–12519 Filed 5–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1001; Directorate Identifier 2012–NM–020–AD; Amendment 39–17453; AD 2013–09–11]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company Model 500, 501, 550, 551, S550, 560, 560XL, and 650 airplanes. This AD was prompted by multiple reports of smoke and/or fire in the tailcone caused by sparking due to excessive wear of the brushes in the air conditioning (A/C) motor. This AD requires inspecting to determine if certain A/C compressor motors are installed and to determine the accumulated hours on certain A/C drive motor assemblies; repetitive replacement of the brushes in the drive motor assembly, or, as an option to the brush replacement, deactivation of the A/C system and placard installation; and return of replaced brushes to Cessna. We are issuing this AD to prevent the brushes in the A/C motor from wearing down beyond their limits, which could result in the rivet in the brush contacting the commutator causing sparks and consequent fire and/or smoke in the tailcone with no means to detect or extinguish the fire and/or smoke.

DATES: This AD is effective July 5, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 5, 2013.

ADDRESSES: For service information identified in this AD, contact Cessna

Aircraft Co., P.O. Box 7706, Wichita, KS 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Christine Abraham, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: 316–946–4165; fax: 316–946–4107; email: *wichita-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to the specified products. That SNPRM published in the **Federal Register** on February 11, 2013 (78 FR 9636). The original NPRM (77 FR 59146, September 26, 2012) proposed to require an inspection to determine if certain A/C compressor motors are installed and to determine the accumulated hours on certain A/C drive motor assemblies; repetitive replacement of the brushes in the drive motor assembly, or, as an option to the brush replacement, deactivation of the A/C system and placard installation; and return of replaced brushes to Cessna. The SNPRM proposed to revise the optional A/C system deactivation procedure.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM (78 FR 9636, February 11, 2013) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the SNPRM (78 FR 9636, February 11, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (78 FR 9636, February 11, 2013).

Interim Action

We consider this AD interim action. The reporting data required by this AD will enable us to obtain better insight into brush wear. The reporting data will also indicate if the replacement intervals we established are adequate. After we analyze the reporting data received, we might consider further rulemaking.

Model 525 airplanes are not subject to this AD. We are currently considering requiring similar actions for these airplanes.

Costs of Compliance

We estimate that this AD will affect 1,987 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection, drive motor assembly brush replacement, parts return, and reporting.	11 work-hours × $85 per hour = $935 per replacement cycle.	$252 per replacement cycle.	$1,187 per replacement cycle.	$2,358,569 per replacement cycle.
Optional fabrication of placard for deactivation.	1 work-hour × $85 per hour = $85.	$0	$85	$168,895.
Optional deactivation or reactivation for Model 560XL airplanes (370 airplanes).	1 work-hour × $85 per hour = $85.	$0	$85	$31,450.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–09–11 Cessna Aircraft Company: Amendment 39–17453; Docket No. FAA–2012–1001; Directorate Identifier 2012–NM–020–AD.

(a) Effective Date

This AD is effective July 5, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Cessna Aircraft Company airplanes, certificated in any category.

(1) Model 500 and 501 airplanes, serial numbers (S/N) 0001 through 0689 inclusive.

(2) Model 550 and 551 airplanes, S/Ns 0002 through 0733 inclusive, and 0801 through 1136 inclusive.

(3) Model S550 airplanes, S/Ns 0001 through 0160 inclusive.

(4) Model 560 airplanes, S/Ns 0001 through 0707 inclusive, and 0751 through 0815 inclusive.

(5) Model 560XL airplanes, S/Ns 5001 through 5300 inclusive.

(6) Model 650 airplanes, S/Ns 0200 through 0241 inclusive, and 7001 through 7119 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 21, Air Conditioning.

(e) Unsafe Condition

This AD was prompted by multiple reports of smoke and/or fire in the tailcone caused by sparking due to excessive wear of the brushes in the air conditioning (A/C) motor. We are issuing this AD to prevent the brushes in the A/C motor from wearing down, which could result in the rivet in the brush contacting the commutator causing sparks and consequent fire and/or smoke in the tailcone with no means to detect or extinguish the fire and/or smoke.

(f) Compliance

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

(g) Inspection for Part Number (P/N)

Within 30 days or 10 flight hours after the effective date of this AD, whichever occurs first: Inspect the A/C compressor motor to determine whether P/N 1134104–1 or P/N 1134104–5 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the A/C compressor motor can be conclusively determined from that review.

(h) Inspection of Compressor Hour Meter and Maintenance Records

If, during the inspection required by paragraph (g) of this AD, any A/C compressor motor is found having P/N 1134104–1 or P/N 1134104–5: Within 30 days or 10 flight hours after the effective date of this AD, whichever occurs first, determine the hour reading on the A/C compressor hour meter as specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Inspect the number of hours on the A/C compressor hour meter. And,

(2) Check the airplane logbook for any entry for replacing the A/C compressor motor brushes with new brushes, or for replacing the compressor motor or compressor condenser module assembly (pallet) with a motor or assembly that has new brushes.

(i) If the logbook contains an entry for replacement of parts, as specified in paragraph (h)(2) of this AD, determine the number of hours on the A/C compressor motor brushes by comparing the number of hours on the compressor motor since replacement and use this number in lieu of the number determined in paragraph (h)(1) of this AD. Or,

(ii) If, through the logbook check you cannot positively determine the number of hours on the A/C compressor motor brushes, as specified in paragraph (h)(2) of this AD, use the number of hours on the A/C compressor hour meter determined in paragraph (h)(1) of this AD or presume the brushes have over 500 hours time-in-service.

(i) Replacement

Using the hour reading on the A/C compressor hour meter determined in paragraph (h) of this AD, replace the A/C compressor motor brushes with new brushes at the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD. Thereafter, repeat the replacement of the A/C compressor motor brushes at intervals not to exceed 500 hours time-in-service on the A/C compressor motor. Do the replacement in accordance with the applicable Cessna maintenance manual subject specified in paragraphs (j)(1) through (j)(7) of this AD.

(1) Before the accumulation of 500 total hours time-in-service on the A/C compressor motor.

(2) Before further flight after doing the inspection required in paragraph (h) of this AD.

(j) Replacement Maintenance Manual Information

Use the instructions in the applicable Cessna maintenance manual subject specified in paragraphs (j)(1) through (j)(7) of this AD to do the replacement required by paragraph (i) of this AD.

(1) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 10, dated April 23, 2012, of the Cessna Model 550 Bravo Maintenance Manual.

(2) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 8, dated April 23, 2012, of the Cessna Model 550Maintenance Manual.

(3) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 20, dated April 23, 2012, of the Cessna Model 560 Maintenance Manual.

(4) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 13, dated April 23, 2012, of the Cessna Model 560XLMaintenance Manual.

(5) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 30, dated April 23, 2012, of the Cessna Model 650 Maintenance Manual.

(6) Subject 4–11–00, Replacement Time Limits-General, of Chapter 4, Airworthiness Limitations, Revision 4, dated April 23, 2012, of the Cessna Model 500/501Maintenance Manual.

(7) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 7, dated April 23, 2012, of the Cessna Model S550 Maintenance Manual.

(k) Deactivation of A/C System

In lieu of replacing the A/C compressor motor brushes as required by this AD, deactivate the A/C system as specified in paragraph (k)(1), (k)(2), or (k)(3) of this AD, as applicable.

(1) For all airplanes except Model 560XL and 650 airplanes: Pull the vapor cycle A/C circuit breaker labeled ''AIR COND,'' do the actions specified in paragraphs (k)(1)(i) and (k)(1)(ii) of this AD, and document deactivation of the system in the airplane logbook, referring to this AD as the reason for deactivation. While the system is deactivated, the airplane operator must remain aware of operating temperature limitations specified in the applicable airplane flight manual.

(i) Fabricate a placard that states: ''A/C DISABLED'' with ⅛-inch black lettering on a white background.

(ii) Install the placard on the airplane instrument panel within 6 inches of the A/C selection switch.

(2) For Model 650 airplanes: Pull the vapor cycle A/C circuit breaker labeled ''FWD EVAP FAN,'' do the actions specified in paragraphs (k)(1)(i) and (k)(1)(ii) of this AD, and document deactivation of the system in the airplane logbook, referring to this AD as the reason for deactivation. While the system is deactivated, the airplane operator must remain aware of operating temperature limitations specified in the applicable airplane flight manual.

(3) For Model 560XL airplanes: Do the actions specified in paragraphs (k)(1)(i) and (k)(1)(ii) of this AD, and document deactivation of the system in the airplane logbook, referring to this AD as the reason for

deactivation. While the system is deactivated, the airplane operator must remain aware of operating temperature limitations specified in the applicable airplane flight manual. Remove the fuse limiter that supplies power to the A/C compressor motor by doing the actions specified in paragraphs (k)(3)(i) through (k)(3)(viii) of this AD, and return to the airplane to service by doing the actions specified in paragraphs (k)(3)(ix) through (k)(3)(xiii) of this AD.

(i) Open the battery door.

(ii) Disconnect the main battery connector and remove external electrical power.

(iii) Tag the battery and external power receptacle with a warning tag that reads: ''WARNING: Do not connect the battery connector during the maintenance in progress.''

(iv) Gain access to the J-Box through the tailcone access door.

(v) Remove the wing nuts that attach the cover to the J-Box.

(vi) Remove the J-Box cover.

(vii) Remove nuts securing compressor fuse limiter (reference designator HZ116, P/N ANL130) to the bus bar.

(viii) Remove the compressor motor fuse limiter from the terminals and retain for future reinstallation once the compressor motor brushes have been replaced.

(ix) Install fuse limiter nuts on the terminals and torque to 100 inch-pounds +/– 5 inch-pounds.

(x) Install the J-Box cover with wing nuts.

(xi) Remove the warning tag on the battery and external power receptacle.

(xii) Connect the battery and restore electrical power to the airplane.

(xiii) Close the tailcone access door.

(l) Reactivation of A/C System

If an operator chooses to deactivate the A/C system, as specified in paragraph (k) of this AD, and then later chooses to return the A/C system to service: Before returning the A/C system to service and removing the placard, perform the inspection specified in paragraph (h) of this AD, and do the replacements specified in paragraph (i) of this AD, at the times specified in paragraph (i) of this AD. Return the A/C system to service by doing the actions specified in paragraph (l)(1), (l)(2), or (l)(3) of this AD, as applicable.

(1) For all airplanes except Model 560XL and 650 airplanes: Push in the vapor cycle A/C circuit breaker labeled ''AIR COND,'' remove the placard by the A/C selection switch that states ''A/C DISABLED,'' and document reactivation of the system in the airplane logbook.

(2) For Model 650 airplanes: Push in the vapor cycle A/C circuit breaker labeled ''FWD EVAP FAN,'' remove the placard by the A/C selection switch that states ''A/C DISABLED,'' and document reactivation of the system in the airplane logbook.

(3) For Model 560XL airplanes: Remove the placard by the A/C selection switch that states ''A/C DISABLED,'' and document reactivation of the system in the airplane logbook. Re-install the fuse limiter by doing the actions specified in paragraphs (l)(3)(i) through (l)(3)(viii) of this AD, and return to the airplane to service by doing the actions specified in paragraphs (l)(3)(ix) through (l)(3)(xiii) of this AD.

(i) Open the battery door.

(ii) Disconnect the main battery connector and remove external electrical power.

(iii) Tag the battery and external power receptacle with a warning tag that reads: ''WARNING: Do not connect the battery connector during the maintenance in progress.''

(iv) Gain access to the J-Box through the tailcone access door.

(v) Remove the wing nuts that attach the cover to the J-Box.

(vi) Remove the J-Box cover.

(vii) Remove the fuse limiter nuts on the bus bar terminals for the fuse limiter.

(viii) Install the compressor motor fuse limiter (reference designator HZ116, P/N ANL130).

(ix) Install fuse limiter nuts on the terminals and torque to 100 inch-pounds +/– 5 inch-pounds.

(x) Install the J-Box cover with wing nuts.

(xi) Remove the warning tag on the battery and external power receptacle.

(xii) Connect the battery and restore electrical power to the airplane.

(xiii) Close the tailcone access door.

(m) Parts Return and Reporting Requirements

For the first two A/C compressor motor brush replacement cycles on each airplane, send the brushes that were removed to Cessna Aircraft Company, Cessna Service Parts and Programs, 7121 Southwest Boulevard, Wichita, KS 67215. Provide the brushes and the information specified in paragraphs (m)(1) through (m)(6) of this AD within 30 days after the replacement, if the replacement was done on or after the effective date of this AD, or within 30 days after the effective date of this AD, if the replacement was done before the effective date of this AD.

(1) The model and serial number of the airplane.

(2) The part number of the motor.

(3) The part number of the brushes, if known.

(4) The elapsed amount of motor hours since the last brush/motor replacement, if known.

(5) If motor hours are unknown, report the elapsed airplane flight hours since the last brush/motor replacement and indicate that motor hours are unknown.

(6) The number of motor hours currently displayed on the pallet hour meter.

(n) Parts Installation Limitation

As of the effective date of this AD, no person may install an A/C compressor motor having P/N 1134104–1 or P/N 1134104–5, unless the inspection specified in paragraph (h) of this AD is done before further flight, and the replacements specified in paragraph (i) of this AD are done at the times specified in paragraph (i) of this AD.

(o) Special Flight Permit Limitation

Operation of the A/C system is prohibited while flying with a special flight permit issued for this AD.

(p) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(q) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

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

(r) Related Information

For more information about this AD, contact Christine Abraham, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: 316–946–4165; fax: 316–946–4107; email: *wichita-cos@faa.gov.*

(s) Material Incorporated by Reference

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

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

(i) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 10, dated April 23, 2012, of the Cessna Model 550 Bravo Maintenance Manual. The revision level of Chapter 4 is identified only on the title page of Chapter 4.

(ii) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 8, dated April 23, 2012, of the Cessna Model 550 Maintenance Manual. The revision level of Chapter 4 is

identified only on the title page of Chapter 4.

(iii) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 20, dated April 23, 2012, of the Cessna Model 560 Maintenance Manual. The revision level of Chapter 4 is identified only on the title page of Chapter 4.

(iv) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 13, dated April 23, 2012, of the Cessna Model 560XL Maintenance Manual. The revision level of Chapter 4 is identified only on the title page of Chapter 4.

(v) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 30, dated April 23, 2012, of the Cessna Model 650 Maintenance Manual. The revision level of Chapter 4 is identified only on the title page of Chapter 4.

(vi) Subject 4–11–00, Replacement Time Limits-General, of Chapter 4, Airworthiness Limitations, Revision 4, dated April 23, 2012, of the Cessna Model 500/501Maintenance Manual. The revision level of Chapter 4 is identified only on the title page of Chapter 4.

(vii) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 7, dated April 23, 2012, of the Cessna Model S550 Maintenance Manual. The revision level of Chapter 4 is identified only on the title page of Chapter 4.

(3) For Cessna service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, KS 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.*

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

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

Issued in Renton, Washington, on April 26, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–12662 Filed 5–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0426; Directorate Identifier 2013–NM–084–AD; Amendment 39–17463; AD 2013–11–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final Rule; Request for Comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes. This AD requires repetitive detailed inspections for cracking of the left-hand (LH) and right-hand (RH) wing lower skin, and repair if necessary. This AD also provides terminating action for the repetitive detailed inspections. This AD was prompted by reports of a fractured wing lower rear spar cap and reinforcing strap. We are issuing this AD to detect and correct cracked wing structure, which could result in failure of the wing.

DATES: This AD becomes effective June 14, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 14, 2013.

We must receive comments on this AD by July 15, 2013.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ricardo Garcia, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Emergency Canadian Airworthiness Directive CF–2013–11, dated April 17, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> While performing modifications on a CL–215–1A10 aeroplane, an operator discovered that the wing lower rear spar cap and reinforcing strap were fractured at Wing Stations (WS) 49.5 and 50 respectively and the rear spar web and wing lower skin were also cracked. It is suspected that a crack initiated at the wing lower spar cap, leading to its failure, the subsequent failure of the reinforcing strap and cracking of the spar web and wing lower skin. The damage was outside of the area addressed by the repetitive ultrasonic inspections required by AD CF–1992–26R2 [which corresponds to FAA AD 2012–11–04, Amendment 39–17067 (77 FR 32892, June 4, 2012)] and was found 95 hours air time after the last ultrasonic inspection.
>
> Failure and cracking of the above-noted wing structure, if not detected, could result in failure of the wing. In order to mitigate the unsafe condition, this [Canadian] AD mandates a repetitive [detailed] visual inspection [for cracking] of the wing lower skin until an eddy current inspection [for cracking] of the [LH and RH wing lower front and rear] spar cap[s] is performed or a [detailed] visual inspection [for cracking] of the wing structures [i.e., the LH and RH wing lower skin, front and rear spar caps, front and rear spar webs, and reinforcing straps] is performed by removing the fuel bladder[, and repair if any cracking is found during any inspection]. Transport Canada may mandate additional corrective actions pending the outcome of the failure investigation and fleet findings. The requirements of AD CF–1992–26R2 remain applicable.

The terminating action is doing either a detailed inspection for cracking of the LH and RH wing lower skin, front and rear spar caps, front and rear spar webs,

and reinforcing straps or an optional eddy-current inspection for cracking of the LH and RH wing lower front and rear spar caps and repair if necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier, Inc. has issued Alert Service Bulletin 215–A558, dated April 5, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

The service information specifies to contact the manufacturer for instructions on how to repair certain conditions, but this AD requires repairing those conditions using a method approved by the FAA or TCCA (or its delegated agent).

Interim Action

We considered this AD interim action. The inspection reports that are required by this AD will enable us to obtain better insight into the nature, cause, and extent of the cracking, and eventually to develop final action to address the unsafe condition. Once final action has been identified, we might consider further rulemaking.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because an operator discovered that the wing lower rear spar cap and reinforcing strap were fractured at WS 49.5 and 50 respectively, and that the rear spar web and wing lower skin were also cracked. Failure and cracking of the wing structure, if not detected, could result in failure of the wing. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0426; Directorate Identifier 2013–NM–084–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 5 products of U.S. registry. We also estimate that it will take up to 20 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $8,500, or $1,700 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–11–03 Bombardier, Inc.: Amendment 39–17463. Docket No. FAA–2013–0426; Directorate Identifier 2013–NM–084–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 14, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–215–1A10 airplanes, serial numbers (S/Ns) 1001 through 1125 inclusive; and Model CL–215–6B11 (CL–215T Variant) airplanes, S/Ns 1056 through 1125 inclusive; certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 57; Wings.

(e) Reason

This AD was prompted by reports of a fractured wing lower rear spar cap and reinforcing strap. We are issuing this AD to detect and correct cracked wing structure, which could result in failure of the wing.

(f) Compliance

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

(g) Inspection and Repair

Within 10 flight hours after the effective date of this AD, do a detailed inspection for cracking of the left-hand (LH) and right-hand (RH) wing lower skin between wing stations (WS) 45.00 and 51.00, in accordance with Part A of Bombardier Alert Service Bulletin 215–A558, dated April 5, 2013. Repeat the inspection thereafter at intervals not to exceed 25 flight hours, until the inspection specified in paragraph (h)(1) or (h)(2) of this AD has been accomplished. If any cracking is found during the inspection required by paragraph (g) of this AD, before further flight, repair the crack using a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(h) Optional Terminating Actions

(1) Accomplishing a one-time detailed inspection for cracking of the LH and RH wing lower skin, front and rear spar caps, front and rear spar webs, and reinforcing straps, in accordance with Part B of Bombardier Alert Service Bulletin 215–A558, dated April 5, 2013, terminates the actions required by paragraph (g) of this AD. If any cracking is found during the one-time detailed inspection, before further flight, repair the crack using a method approved by the Manager, New York ACO, FAA; or TCCA (or its delegated agent).

(2) Accomplishing a one-time eddy current inspection for cracking of the LH and RH wing lower front and rear spar caps, in accordance with paragraph 3.B. and paragraphs 4. through 9. (Part C–1), and paragraphs 10. through 16. (Part C–2), of Bombardier Alert Service Bulletin 215–A558, dated April 5, 2013, terminates the actions required by paragraph (g) of this AD. If any cracking is found during the one-time eddy current inspection, before further flight, repair the crack using a method approved by the Manager, New York ACO, FAA; or TCCA (or its delegated agent).

(i) Reporting Requirement

Submit a report of the crack findings of the inspections specified in paragraphs (g), (h)(1), and (h)(2) of this AD to Bombardier Aerospace Specialized and Amphibious Aircraft Technical Support at email: *mtl.saa.tech.support@aero.bombardier.com.* Submit the report at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 14 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 14 days after the effective date of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York ACO, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(3) Reporting Requirements: A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information Canadian Emergency Airworthiness Directive CF–2013–11, dated April 17, 2013; and Bombardier Alert Service Bulletin 215–A558, dated April 5, 2013; for related information.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Alert Service Bulletin 215–A558, dated April 5, 2013.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on May 17, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–12615 Filed 5–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0793; Airspace Docket No. 12–ANE–14]

Establishment of Class E Airspace; Bass Harbor, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E Airspace at Bass Harbor, ME, to accommodate a new Area Navigation (RNAV) Global Positioning System (GPS) special Standard Instrument Approach Procedure (SIAP) serving Bass Harbor Heliport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations within the National Airspace System. Also, geographic coordinates are corrected under their proper heading.

DATES: Effective 0901 UTC, August 22, 2013. The Director of the Federal

Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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:

History

On March 28, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace at Bass Harbor, ME (78 FR 18931). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication the FAA found that the points of space coordinates were incorrect. This action makes the correction. Except for editorial changes and the changes listed above, this rule is the same as published in the NPRM.

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface at Bass Harbor, ME, providing the controlled airspace required to support the new Copter RNAV (GPS) special standard instrument approach procedures for Bass Harbor Heliport. Controlled airspace within a 6-mile radius of the point in space coordinates of the heliport is necessary for the safety and management of IFR operations at the heliport. Geographic coordinates for the heliport and points in space are corrected and separately listed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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 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 rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Bass Harbor Heliport, Bass Harbor, ME.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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.

* * * * *

ANE ME E5 Bass Harbor, ME [New]

Bass Harbor Heliport, ME
(Lat. 44°15′16″ N., long. 68°20′57″ W.)
Point in Space Coordinates
(Lat. 44°14′49″ N., long. 68°20′18″ W.)

That airspace extending upward from 700 feet above the surface within a 6- mile radius of the Point in Space Coordinates (lat. 44°14′49″ N., long. 68°20′18″ W.) serving Bass Harbor Heliport

Issued in College Park, Georgia, on May 21, 2013.

Jackson Allen,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–12705 Filed 5–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 24, 162, 163, and 178

[USCBP–2012–0007; CBP Dec. 13–08]

RIN 1515–AD86

United States-Korea Free Trade Agreement

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with two changes, interim amendments to the U.S. Customs and Border Protection (''CBP'') regulations which were published in the **Federal Register** on March 19, 2012, as CBP Dec. 12–03, to implement the preferential tariff treatment and other customs-related provisions of the United States-Korea Free Trade Agreement entered into by the United States and the Republic of Korea.

DATES: Effective July 1, 2013.

FOR FURTHER INFORMATION CONTACT:

Textile Operational Aspects: Jackie Sprungle, Trade Policy and Programs, Office of International Trade, (202) 863–6517.

Other Operational Aspects: Katrina Chang, Trade Policy and Programs,

Office of International Trade, (202) 863–6532.

Legal Aspects: Yuliya A. Gulis, Regulations and Rulings, Office of International Trade, (202) 325–0042.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2007, the United States and the Republic of Korea (hereinafter ''Korea'') signed the United States-Korea Free Trade Agreement (hereinafter ''UKFTA'' or the ''Agreement''). On December 3, 2010, the United States and Korea concluded new agreements, reflected in letters signed on February 10, 2011, that provide new market access and level the playing field for U.S. auto manufacturers and workers. The provisions of the FTA were adopted by the United States with the enactment of the United States-Korea Free Trade Agreement Implementation Act (the ''Act''), Public Law 112–41, 125 Stat. 428 (19 U.S.C. 3805 note), on October 21, 2011. Sections 103(b) and 208 of the Act require that regulations be prescribed as necessary to implement the provisions of the UKFTA.

Following Presidential Proclamation 8783, CBP published on March 19, 2012, CBP Dec. 12–03 in the **Federal Register** (77 FR 15943), setting forth interim amendments to implement the preferential tariff treatment and customs–related provisions of the UKFTA. In order to provide transparency and facilitate their use, the majority of the UKFTA implementing regulations set forth in CBP Dec. 12–03 were included within new subpart R in part 10 of the CBP regulations (19 CFR part 10). However, in those cases in which UKFTA implementation was more appropriate in the context of an existing regulatory provision, the UKFTA regulatory text was incorporated in an existing part within the CBP regulations. For a detailed description of the pertinent provisions of the Agreement and of the UKFTA implementing regulations, please see CBP Dec. 12–03.

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures and took effect on March 15, 2012, CBP Dec. 12–03 provided for the submission of public comments that would be considered before the adoption of the interim regulations as a final rule. The prescribed public comment period closed on May 18, 2012.

Discussion of Comments

Two responses were received to the solicitation of comments on the interim rule set forth in CBP Dec. 12–03. The comments are discussed below.

A. Certification

Comment

A commenter cited four subjects of CBP's interim regulations which it found favorable, namely: (1) The flexibility for certifications to be issued by the producer, exporter, or importer who possesses the required origin information; (2) the consistent application of the rules of origin to UKFTA; (3) clear regulatory procedures regarding actions that CBP will take with respect to inquiries, audits, and enforcement actions; and (4) the exemption from the *ad valorem* merchandise processing fees for goods that qualify as originating under the UKFTA. In addition, the commenter praised the implementation instructions issued by CBP on March 12, 2012.

The commenter, however, requested clarification concerning the period of validity for blanket certification issued for a twelve-month period for multiple shipments of identical goods from a manufacturer under 19 CFR 10.1004(a)(3)(vii) with respect to the four-year period of a properly executed certificate provided for in 19 CFR 10.1004(f)). For example, a U.S. importer receives a blanket certificate from a Korean supplier (producer) for a one-year period (1/1/2013 through 12/31/2013). Based on the validity of the four-year period for the certificate (1/1/2013 through 12/31/2016) as permitted under 19 CFR 10.1004(f), the commenter asks whether the certificate is valid for use to make a duty free claim after the expiration of the one-year period from the supplier (producer), that is, whether the one-year blanket for multiple shipments of identical goods could be extended for another three years.

CBP Response

Section 10.1004 of the CBP regulations concerning certification implements, among other provisions, Article 6.15.5 of the UKFTA and requires that a certification be valid for four years after the date it was issued. CBP will not accept a certification that is more than four years old. The time period that a blanket certification may cover is limited to a one-year period. In the example above, the blanket certification issued on 1/1/2013 applies to the one-year period of time during which the identical goods were produced (1/1/2013–12/31/2013). The producer would need to have a new blanket certification for another year's production. Please note that the four-year certification period (through 12/31/2016) would continue to cover only the goods that were produced during the blanket one-year period from 1/1/2013 to 12/31/2013 if these goods were imported into the United States three years after they were produced. The producer would need an amended blanket certification to cover further production of identical goods beyond the initial one-year period, such as 1/1/2014 to 12/31/2014.

B. Verification

Comment

A commenter stated that the use of denial of entry under 19 CFR 10.1027 could be a disproportionate measure and that any action against textile or apparel goods under the UKFTA should be limited to denial of preferential treatment. The commenter requested that CBP consider revising section 10.1027 of part 10 to either (1) remove references to ''denial of entry'' to textile or apparel goods, or, (2) to further specify the conditions that would trigger a denial of entry requiring a CBP finding of either (a) repeated unlawful activity or (b) willful presentation of inaccurate origin information.

CBP Response

CBP believes the language in section 10.1027 of the interim regulations accurately reflects the text of the UKFTA and the Act. Article 4.3.10 of the UKFTA specifies that if the importing party is unable to make the determination described in either Article 4.3.3 (verification to determine that a claim of origin for a textile or apparel good is accurate) or Article 4.3.5 (verification to determine that a person is complying with applicable customs measures affecting trade in textile or apparel goods when the importing party has a reasonable suspicion that the person is engaging in unlawful activity relating to trade in textile and apparel goods) within 12 months after its request for a verification, or makes a negative determination, it may, consistent with its law, take appropriate action. Section 207(d)(2) of the Act specifically defines ''appropriate action'' to include denial of entry into the United States for goods subject to a verification under section 207(a)(1), namely textile or apparel goods.

With regard to country of origin determinations of textile or apparel goods in general, if the CBP port director is unable to determine the country of origin of a textile or apparel product, the importer must submit additional information as requested by the port director. Release of the product from CBP custody will be denied until

a determination of the country of origin is made based upon the information provided or the best information available. *See* 19 CFR 102.23(b).

Conclusion

CBP is making two technical corrections to the interim regulatory text as a result of its further review. The first is to correct a cross-reference in section 10.1009(c)(2) to paragraph (c)(1). The second is to the regulatory text of section 10.1027 to improve readability and logical flow by changing the order of paragraphs (c) and (d) concerning verifications of U.S. imports of textile and apparel goods in Korea. This change will move the provision on action by U.S. officials in conducting a verification abroad to appear before the provision on denial of permission to conduct a verification. Accordingly, after further review of the comments and further consideration, CBP has determined that the interim regulations published as CBP Dec. 12–03 should be adopted as a final rule with two technical corrections to 19 CFR 10.1009 and 10.1027 as discussed above.

Executive Order 12866

This document is not a regulation or a rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 4, 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

CBP Dec. 12–03 was issued as an interim rule rather than a notice of proposed rulemaking because CBP had determined that the interim regulations involve a foreign affairs function of the United States pursuant to section 553(a)(1) of the Administrative Procedure Act. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information contained in these regulations have previously been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0117, which covers many of the free trade agreements requirements that CBP administers. The collections of information in these regulations are in §§ 10.1003 and 10.1004. This information is required in connection with claims for preferential tariff treatment under the UKFTA and the Act and will be used by CBP to determine eligibility for tariff preference under the UKFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

The estimated average annual burden associated with the collection of information in this final rule is 0.2 hours per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of Homeland Security, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC 20229–1179. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 24

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the CBP Regulations

Accordingly, the interim rule amending parts 10, 24, 162, 163, and 178 of the CBP regulations (19 CFR parts 10, 24, 162, 163, and 178), which was published at 77 FR 15943 on March 19, 2012, is adopted as final with the following changes:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for Part 10 and the specific authority citations for subpart R continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.1001 through 10.1034 also issued under 19 U.S.C. 1202 (General Note 33, HTSUS), 19 U.S.C. 1520(d), and Pub. L. 112–41, 125 Stat. 428 (19 U.S.C. 3805 note).

§ 10.1009 [Amended]

■ 2. Paragraph (c)(2) of section 10.1009 is amended by removing the words, ''paragraph (c)'' and adding in its place the words, ''paragraph (c)(1)''.

§ 10.1027 [Amended]

■ 3. Section 10.1027 is amended by redesignating paragraph (c) as paragraph (d) and paragraph (d) as paragraph (c), respectively.

Thomas S. Winkowski,

Deputy Commissioner of CBP, Performing Duties of the Commissioner of U.S. Customs and Border Protection.

Approved: May 24, 2013.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2013–12849 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1

[Docket No. FDA–2011–N–0179]

RIN 0910–AG65

Information Required in Prior Notice of Imported Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule that adopts, without change, the interim final rule (IFR) entitled ''Information Required in Prior Notice of Imported Food'' that published in the **Federal Register** (76 FR 25542; May 5, 2011) (2011 IFR). This final rule adopts the IFR's requirement of an additional element of information in a prior notice of imported food, specifically that a person submitting prior notice of imported food, including food for animals, must report the name of any country to which the article has been refused entry.

DATES: This rule is effective May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Anthony C. Taube, Office of Regulatory Affairs, Office of Regional Operations, Food and Drug Administration, 12420 Parklawn Dr., ELEM–4051, Rockville, MD 20857, 866–521–2297.

SUPPLEMENTARY INFORMATION:

I. Background

Each year about 48 million people (1 in 6 Americans) get sick; 128,000 are hospitalized; and 3,000 die from food borne diseases, according to 2011 data from the Centers for Disease Control and Prevention (*http://www.cdc.gov/foodborneburden/2011-foodborne-estimates.html*). This is a significant public health burden that is largely preventable.

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353), signed into law by President Obama on January 4, 2011, enables FDA to better protect public health by helping to ensure the safety and security of the food supply. It enables FDA to focus more on preventing food safety problems rather than relying primarily on reacting to problems after they occur. The law also provides FDA with new enforcement authorities to help it achieve higher rates of compliance with prevention- and risk-based food safety standards and to better respond to and contain problems when they do occur. The law also gives FDA important new tools to better ensure the safety of imported foods and directs FDA to build an integrated national food safety system in partnership with State and local authorities.

Section 304 of FSMA amended section 801(m) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 381(m)) to require that additional information be provided in a prior notice of imported food submitted to FDA. This change requires a person submitting prior notice of imported food, including food for animals, to report, in addition to other information already required, ''any country to which the article has been refused entry.'' Section 304 also required the Secretary of Health and Human Services to issue an IFR implementing this statutory change no later than 120 days following the date of enactment of FSMA and further specified that the amendment made by section 304 take effect 180 days after the date of FSMA's January 4, 2011, enactment, which was July 3, 2011. On May 5, 2011, FDA issued an IFR that implemented section 304 and contained a request for comments. The IFR became effective on July 3, 2011. This final rule adopts, without making any changes, the regulatory requirements established in the IFR.

To the extent that 5 U.S.C. 553 applies to this action, the Agency's implementation of this action with an immediate effective date comes within the good cause exception in 5 U.S.C. 553(d)(3) (21 CFR 10.40(c)(4)(ii)). As this final rule imposes no new regulatory requirements, a delayed effective date is unnecessary.

II. Brief History of Prior Notice

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) was signed into law on June 12, 2002, and among other things, it amended the FD&C Act by adding section 801(m). This provision created the requirement that FDA receive certain information about imported foods before arrival in the United States. It also provided that an article of food imported or offered for import is subject to refusal of admission into the United States if adequate prior notice has not been provided to FDA. The Secretary of Health and Human Services was directed to issue implementing regulations, after consultation with the Secretary of the Treasury, by December 12, 2003, requiring prior notice of imported food.

In accordance with the Bioterrorism Act, the Department of Health and Human Services (HHS) and the Department of the Treasury jointly published a notice of proposed rulemaking (proposed rule) in the **Federal Register** of February 3, 2003 (68 FR 5428), proposing requirements for submission of prior notice for human and animal food that is imported or offered for import into the United States. On October 10, 2003, HHS and the Department of Homeland Security (DHS) [1] issued the prior notice IFR (2003 IFR) (68 FR 58974) (corrected by a technical amendment on February 2, 2004; 69 FR 4851). The 2003 IFR required that prior notice be submitted to FDA electronically using either the U.S. Customs and Border Protection (CBP) Automated Broker Interface of the Automated Commercial System or the FDA Prior Notice System Interface. The 2003 IFR also set forth the timeframes within which prior notice must be submitted.

In the **Federal Register** of November 7, 2008 (73 FR 66294), HHS and DHS published a final rule that made a number of changes to the 2003 IFR, including changes to certain provisions containing definitions, submission timeframes, and the information that must be submitted in a prior notice. The final rule went into effect on May 6, 2009. In calendar year 2011, 10,537,372 prior notices were submitted, 9,054,230 of which were submitted through the CBP system with the remaining 1,483,142 being submitted through the FDA system.

The prior notice regulations are codified at Title 21, Code of Federal Regulations (CFR) part 1, subpart I (21 CFR 1.276 to 1.285). Section 1.281 of the regulations (21 CFR 1.281) describes the information that must be submitted in a prior notice. The 2011 IFR amended those regulations as required by section 304 of FSMA. Specifically, the 2011 IFR amended paragraphs (a), (b), and (c) of § 1.281 to require that the prior notice include the identity of any country to which an article of food has been refused entry. This final rule adopts these changes to § 1.281.

[1] On May 15, 2003, the Treasury Department issued Treasury Department Order Number No. 100–16 delegating to DHS its authority related to the customs revenue functions, with certain delineated exceptions in which the Treasury Department retained its authority. *See* Appendix to 19 CFR Part 0. The Treasury Department transferred to DHS its regulatory authority relating to the requirements for prior notices. Thus the Secretary of HHS issued the regulations implementing section 801(m) of the FD&C Act (21 U.S.C. 381(m)) jointly with the Secretary of Homeland Security. Similarly, this final rule is being issued jointly with the Secretary of Homeland Security.

III. Comments on the Interim Final Rule

FDA received 15 comments in response to the IFR. After considering these comments, the Agency is not making any changes to the regulatory language included in the IFR. Relevant portions of these comments are summarized and responded to in this document. To make it easier to identify comments and FDA's responses, the word ''Comment,'' in parentheses, appears before the comment's description, and the word ''Response,'' in parentheses, appears before FDA's response. Each comment is numbered to help distinguish among different comments. The number assigned to each comment is purely for organizational purposes and does not signify the comment's value or importance.

(Comment 1) Several comments requested that FDA clarify the scope of the term ''refused entry'' in the requirement to report in a prior notice the name of ''any country to which an article of food has been refused entry''. Many comments stated that refusals can occur for various reasons (e.g., labeling, noncompliance with wood packing materials/pallets or food safety reasons) and suggested limiting the reporting requirement to refusals due to food safety-related reasons. One comment noted that only requiring reporting of refusals associated with safety risks will avoid an influx of nonmission-critical data and enable FDA's Division of Food Defense Targeting (formerly known as the Prior Notice Center) to allocate its resources in a manner that is effective and consistent with FDA's goal to ensure the safety and security of the U.S. food supply.

(Response) For purposes of this regulation, FDA considers ''refused entry'' to mean a refusal of entry or admission of human or animal food based on food safety reasons, such as intentional or unintentional contamination of an article of food. FDA agrees that only refusals for food safety reasons should be reported. This is consistent with the intent of the provision, which is to provide FDA with additional information to better identify imported food shipments that may pose a safety or security risk to U.S. consumers. FDA plans to explain the meaning of refused entry in its guidance on the prior notice rule and this should prevent confusion regarding the term.

(Comment 2) Several comments suggested including information regarding the reason for refusal in the prior notice to facilitate and better inform FDA's decisionmaking process. One comment recommended the use of affirmation of compliance codes for various types of refusals, using the country identifier as the affirmation of compliance qualifier.

(Response) At this time, FDA is not requiring the reason for refusal to be submitted along with the identity of the country. As FDA reviews the prior notice submission information, it may contact the submitter or other parties to obtain further information to assist with its review.

(Comment 3) Several comments requested that FDA clarify the scope of the term ''article of food'' in the requirement to report in a prior notice the name of any country to which an ''article of food'' has been refused entry. In particular, comments suggested clarifying whether ''article of food'' refers to a specific shipment of food that is the subject of a specific prior notice, or to food within the same lot or batch numbers that may be sent to other countries. Two comments recommended limiting the scope of the term ''article of food'' to a specific article of food that is the subject of a specific prior notice so that compliance with the rule does not create a burden on industry.

(Response) For purposes of this regulation, FDA considers the term ''article of food'' to refer only to the specific food item for which prior notice is being submitted. As such, FDA does not consider ''article of food'' to refer to food from the same batch or lot that is not being imported or offered for import into the United States and for which prior notice will not be submitted, or to refer to food of a similar type that was previously refused entry by a country. As an example, consider a situation where some of the food from a batch or lot is shipped to the United States and at the same time the rest of the food is shipped to Country A. If Country A refuses entry, this fact is not submitted as part of prior notice for the portion that had been shipped to the United States. However, if the food that was originally shipped to Country A is subsequently shipped to the United States, then the prior notice for this shipment must include Country A as the country to which the article has been refused entry.

(Comment 4) One comment suggested that FDA clearly define the term ''any country'' as that term is used in the requirement to report in a prior notice the name of ''any country'' to which an article of food has been refused entry.

(Response) FDA considers this term sufficiently clear and thus is not defining it in the regulation. For the purpose of the prior notice requirements and reporting the name of ''any country'' to which an article of food has been refused as required by 21 CFR 1.281(a)(18), (b)(12), and (c)(19), ''any country'' refers to the country or countries, including the United States, where an Agency or representative of the government of the country has refused entry to the article of food.

(Comment 5) A few comments suggested that FDA clarify what documentation or verification is required to support the declaration or nondeclaration in a prior notice of imported food the name of any country to which the article of food has been refused entry.

(Response) The prior notice regulation does not contain any specific requirements regarding documentation of the information submitted as part of prior notice. However, in some circumstances FDA may request documents or other information pertaining to the refusal to facilitate FDA's review of the prior notice. In addition, FDA may request such information to help inform its admissibility decisions.

(Comment 6) One comment suggested that FDA provide clear guidance on the criteria being used when admissibility decisions are made about an article of food that has been refused entry by another country.

(Response) FDA uses prior notice information to make decisions about which imported food shipments to inspect at the time of arrival. Currently, we target foods which, based on the information submitted and our further review, may pose a significant risk to public health. In addition, the fact that another country has refused admission can help inform FDA's admissibility decisions. When the article of food has been refused entry by another country, it may have been for a reason that would also constitute a violation of U.S. law. Even if it is not, this fact will be considered with other information in determining whether a product is subject to refusal of admission in the United States.

(Comment 7) Two comments expressed the importance of ensuring that the new regulations do not become a barrier to trade.

(Response) The comments did not assert that the new requirement is a barrier to trade, and FDA believes it is consistent with the obligations of the United States under applicable trade agreements.

(Comment 8) One comment stated that it is unreasonable to hold importers liable for what could later be found to be a false declaration because importers or their agents, through no fault of their

own, may be unaware the article of food had been refused entry by a country.

(Response) Per § 1.278, prior notice must be submitted by a person with knowledge of the required information. When there is a violation of the prior notice regulations, FDA will look at the totality of the circumstances in determining whether and how to enforce the violation. FDA has guidance on enforcing the requirements for submitting prior notice, contained in a compliance policy guide entitled ''Sec. 110.310 Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002'' (*http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/FoodDefense/ucm153055.htm*). It explains, for example, that ''FDA and CBP's strategy for enforcing violations of [prior notice] is to take into account the severity of the violations, whether they are flagrant, and whether the person has had previous violations, particularly if they were similar types of violations''.

IV. Executive Orders 12866 and 13563: Cost Benefit Analysis

FDA has examined the impacts of this final rule under Executive Orders 12866 and 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget (OMB) has determined that this is not a significant regulatory action as defined by the Executive Orders.

The Regulatory Flexibility Act requires Agencies to determine whether a final rule will have a significant impact on small entities when an Agency issues a final rule ''after being required . . . to publish a general notice of proposed rulemaking.'' Although we are not required to perform a regulatory flexibility analysis because we were not required to publish a proposed rule prior to this final rule, we have nonetheless conducted a regulatory flexibility analysis for this final rule. Because the costs per entity of this rule are small, the Agency also concludes that this final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $139 million, using the most current (2011) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

Section 304 of FSMA requires a person submitting prior notice of imported food, including food for animals, to report the name of any country to which the article has been refused entry. The 2011 IFR implemented section 304 of FSMA by amending the prior notice regulation that had been in effect. This final rule adopts, without making any changes, the regulatory requirements established in the IFR.

In the 2003 IFR, FDA analyzed the economic impact of the requirements for submitting prior notice for human and animal food that is imported or offered for import into the United States. The Economic Impact Analysis of the 2008 final rule (73 FR 66294 at 66386) revised the analysis set forth in the 2003 IFR using new data and explained the marginal benefits and costs of the final rule itself, relative to the 2003 IFR.

Based on the analysis set forth in the 2008 final rule, the Economic Impact Analysis of the 2011 IFR estimated the marginal benefits and costs of the new statutory requirement in section 304 of FSMA. The 2011 analysis explained that any additional costs are from the additional time it will take submitters to read and enter the new information. The time needed for reading or entering new information was estimated as the average between 7 and 108 seconds per entry or 58 seconds (on average) per entry. Since the additional time required to provide the new information is a small fraction of the variation in time it can take to complete the prior notice for an entry, the marginal cost for the additional 58 seconds (on average) that it would take to provide the additional information would be negligible.

The 2011 analysis did not quantify potential benefits from the 2011 IFR. However, potential benefits can result from FDA's ability to use the additional information to better identify imported food shipments that may pose a safety or security risk to U.S. consumers. Personnel at the Division of Food Defense Targeting (formerly known as the Prior Notice Center) decide on a case-by-case basis whether the article of food needs to be held for examination upon arrival at the port. Having notice of an article of food imported or offered for import into the United States before it reaches a U.S. port allows FDA personnel to be ready at any time to respond to shipments that appear to pose a significant health risk to humans or animals.

FDA did not receive any comments that would warrant further revising the economic analysis of the 2011 IFR. Thus, this economic analysis confirms the economic impact analysis of the 2011 IFR. For a full explanation of the economic impact analysis of this final rule, interested persons are directed to the text of the 2011 (76 FR 25542 at 25543) and the 2008 (73 FR 66294 at 66386) economic impact analyses.

V. Small Entity Analysis

A regulatory flexibility analysis is required only when the Agency must publish a notice of proposed rulemaking (5 U.S.C. 603, 604). Section 304 of FSMA directed us to issue an IFR implementing that statutory provision, and FDA published the 2011 IFR and this final rule without a notice of proposed rulemaking. Although FDA was not required to publish a notice of proposed rulemaking and, therefore, no regulatory flexibility analysis is required, FDA has nonetheless conducted such an analysis and examined the economic implications of this final rule on small entities. FDA concludes that this final rule will not have a significant impact on a substantial number of small businesses.

VI. Paperwork Reduction Act of 1995

This final rule contains information collection requirements that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in § 1.281 have been submitted to OMB for review as required by section 3507(d) of the Paperwork Reduction Act of 1995. The requirements were approved and assigned OMB control number 0910–0683. This approval expires April 30, 2014. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

FDA did not receive comments that would affect the Paperwork Reduction Act burden estimates made in the 2011 IFR (76 FR 25542 at 25544). Therefore the estimated Paperwork Reduction Act burden for this final rule is the same as the estimated burden in the 2011 IFR.

VII. Analysis of Environmental Impact

The Agency has carefully considered the potential environmental effects of this action. FDA has concluded under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the Agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

List of Subjects in 21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

PART 1—GENERAL ENFORCEMENT REGULATIONS

■ Accordingly, the interim rule amending 21 CFR part 1, which was published at 76 FR 25542 on May 5, 2011, is adopted as a final rule without change.

Dated: May 22, 2013.

Kathleen Sebelius,

Secretary of Health and Human Services.

Dated: May 22, 2013.

Janet Napolitano,

Secretary of Homeland Security.

[FR Doc. 2013–12833 Filed 5–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF STATE

22 CFR Parts 120 and 126

RIN 1400–AD38

[Public Notice 8335]

Implementation of the Defense Trade Cooperation Treaty Between the United States and Australia; Announcement of Effective Date for Regulations

ACTION: Final rule; announcement of effective date.

SUMMARY: This rule provides an effective date for previously published regulations implementing the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation (referred to herein as ''the Treaty'').

DATES: *Effective Date:* The rule, ''Implementation of the Defense Trade Cooperation Treaty Between the United States and Australia,'' published on April 11, 2013 (Public Notice 8270, 78 FR 21523) is effective May 16, 2013.

FOR FURTHER INFORMATION CONTACT: Sarah J. Heidema, Office of Defense Trade Controls Policy, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112, telephone (202) 663–2809, email *heidemasj@state.gov.*

SUPPLEMENTARY INFORMATION: The rule (Public Notice 8270, 78 FR 21523), published on April 11, 2013, amends the International Traffic in Arms Regulations to implement the Treaty, and identifies via a supplement the defense articles and defense services that may not be exported pursuant to the Treaty. The Department of State indicated in the rule that it would become effective upon the entry into force of the Treaty, and that the Department of State would publish another rule announcing its effective date. The Treaty entered into force on May 16, 2013. Therefore, the rule is in effect as of that date. The Department's regulatory analyses with respect to this Rule were published at 78 FR 21523, and are hereby incorporated by reference.

Dated: May 20, 2013.

Rose E. Gottemoeller,

Acting Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2013–12610 Filed 5–29–13; 8:45 am]

BILLING CODE 4710–25–P

Proposed Rules

Federal Register
Vol. 78, No. 104
Thursday, May 30, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0472; Directorate Identifier 98–CE–097–AD]

RIN 2120–AA64

Airworthiness Directives; PIAGGIO AERO INDUSTRIES S.p.A Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM); rescission.

SUMMARY: We propose to rescind an airworthiness directive (AD) for PIAGGIO AERO INDUSTRIES S.p.A. Model P–180 airplanes. The existing AD resulted from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as partial detachment of the inner protective film of the composite nacelles. Since issuance of that AD, we have determined that the unsafe condition does not exist or is not likely to develop on affected type design airplanes, and therefore the AD should be rescinded. The proposed AD would allow the public the opportunity to comment on the FAA's determination of the unsafe condition no longer existing before it is officially rescinded.

DATES: We must receive comments on this proposed AD by July 15, 2013.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0472; Directorate Identifier 98–CE–097–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On March 18, 1999, we issued AD 99–07–10, Amendment 39–11095 (64 FR 14824, March 29, 1999). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 99–07–10, Amendment 39–11095 (64 FR 14824, March 29, 1999), the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD Cancellation Notice No.: 2013–0085–CN, dated April 8, 2013, which cancelled Ente Nazionale per l'Aviazione Civile (ENAC) (the airworthiness authority for Italy) AD No. 98–208, dated June 9, 1998. Italian AD No. 98–208 required the inspections and corrective actions of Piaggio Service Bulletin (Mandatory) No.: SB–80–0101, Original Issue: May 6, 1998. AD 99–07–10, Amendment 39–11095 (64 FR 14824, March 29, 1999), is the result of mandatory continuing airworthiness information (MCAI) issued by ENAC.

We have been notified that since 2000, all nacelles for PIAGGIO AERO INDUSTRIES S.p.A Model P–180 airplanes have been manufactured by a different supplier, and no new occurrences of film detachment have been reported on earlier manufactured airplanes. Therefore, nacelle inner panel protective film detachment is no longer considered probable. Consequently, PIAGGIO AERO INDUSTRIES S.p.A. issued Mandatory Service Bulletin No. SB 80–0101, Rev. N. ZZ, dated February 19, 2013, to cancel the previous revision of this service bulletin.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition identified in the existing AD no longer exists and the AD is not necessary.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation

is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing AD 99–07–10, Amendment 39–11095 (64 FR 14824, March 29, 1999), and adding the following new AD:

PIAGGIO AERO INDUSTRIES S.p.A: Docket No. FAA–2013–0472; Directorate Identifier 98–CE–097–AD.

(a) Comments Due Date

We must receive comments by July 15, 2013.

(b) Affected ADs

This AD rescinds AD 99–07–10, Amendment 39–11095 (64 FR 14824, March 29, 1999).

(c) Applicability

This AD applies to PIAGGIO AERO INDUSTRIES S.p.A Model P–180 airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 54; Nacelles/Pylons.

Issued in Kansas City, Missouri, on May 23, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–12822 Filed 5–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 253 and 600

[Docket No. 080228332–81199–01]

RIN 0648–AW38

Magnuson-Stevens Act Provisions; Interjurisdictional Fisheries Act; Disaster Assistance Programs; Fisheries Assistance Programs

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

ACTION: Proposed rule; withdrawal.

SUMMARY: NMFS withdraws a proposed rule for proposed regulations governing the requests for determinations of fishery resource disasters as a basis for acquiring disaster assistance, which was published on January 15, 2009. Instead of going forward with a final rule directly resulting from the 2009 proposed rule, NMFS issued an internal policy on June 16, 2011.

DATES: The proposed rule published on January 15, 2009 (74 FR 2467) is withdrawn as of May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher L. Wright, Fishery Policy Analyst, 301–427–8570, or via email *chris.wright@noaa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Interjurisdictional Fisheries Act (IFA), NMFS (on behalf of the Secretary of Commerce) proposed regulations that were to govern the requests for determinations of fishery resource disasters as a basis for acquiring potential disaster assistance. The proposed regulations would have established definitions, characteristics of commercial fishery failures, fishery resource disasters, serious disruptions affecting future production, and harm incurred by fishermen. It also established requirements for initiating a review by NMFS, and the administrative process it would follow in response to such requests. The intended result of the proposed procedures and requirements was to clarify and interpret the fishery disaster assistance provisions of the MSA and the IFA through rulemaking and, thereby, ensure consistency and facilitate the processing of requests.

On June 16, 2011, NMFS issued an internal policy for determinations of fishery resource disasters as a basis for acquiring potential disaster assistance titled: *POLICY Guidance for Disaster Assistance Under Magnuson-Stevens Act 312(a) and Interjurisdictional Fisheries Act 308(b) and 308(d), http://www.nmfs.noaa.gov/sfa/sf3/disaster_policy2011.pdf.* The purpose of this document is to provide guidance for evaluating requests for fisheries disaster relief under the provisions of section 312(a) and 315 of the MSA and sections 308(b) and 308(d) of the IFA.

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

Dated: May 24, 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. 2013–12860 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 104

Thursday, May 30, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, U.S. Department of Agriculture, (USDA).

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet on June 4, 5, and 6, 2013. The meeting will be held in Denver, CO. at the Webb Municipal and the Denver City/County Buildings. The purpose of this meeting is to introduce new members, develop the 2014 work plan, develop the 2015 grant categories, listen to local constituents urban forestry concerns, prepare for the 10-year action plan revisions, receive Forest Service budget and program updates, and initiate the 2013 accomplishment/recommendations report.

DATES: The meeting will be held on June 4 at the Webb Muncipal Building and on June 5 and 6 at the Denver City/County Building from 9:00 a.m. to 5:00 p.m. or until Council business is completed.

ADDRESSES: The meeting on June 4 will be held at the Webb Municipal Building, 201 West Colfax Ave., Denver, CO. The meeting on June 5 and 6 will be held at the Denver City/County Building, 1437 Bannock Street C, Denver, CO.

Written comments concerning this meeting should be addressed to Nancy Stremple, Executive Staff, National Urban and Community Forestry Advisory Council, 1400 Independence Ave. SW., MS–1151, Washington, DC 20250–1151. Comments may also be sent via email to *nstremple@fs.fed.us,* or via facsimile to 202–690–5792.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. Visitors wishing to view these documents are encouraged to call ahead to facilitate entry into the USDA Forest Service temporary location: 1621 North Kent Street, RPE Building, 9th floor, Rosslyn,VA 22209.

FOR FURTHER INFORMATION CONTACT: Nancy Stremple, Executive Staff, National Urban and Community Forestry Advisory Council, 1400 Independence Ave. SW., MS–1151, Washington, DC, desk phone 202–205–7829, or cell phone 202–309–9873, email: *nstremple@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Those interested in attending should contact Nancy Stremple to be placed on the meeting attendance list and to facilitate entrance to the Webb Municipal and the Denver City/County Buildings. Council discussion is limited to Forest Service staff and Council members; however, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council Executive Staff (1400 Independence Ave. SW., MS–1151, Washington, DC 20250–1151, email: *nstremple@fs.fed.us*) before or after the meeting. Public input sessions will be provided at the meeting.

Dated: May 23, 2013.

Paul Ries,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 2013–12863 Filed 5–29–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: Research on Evacuating Persons with Mobility Impairments.

OMB Control Number: None.

Form Number(s): None.

Type of Request: Regular submission (new information collection).

Number of Respondents: 280.

Average Hours per Response: Surveys, 15 minutes; Interviews, 2 hours; and Focus groups, 2 hours.

Burden Hours: 193.

Needs and Uses: NIST's previous research on elevators has primarily focused on the technical aspects of ensuring safe and reliable evacuation for the occupants of tall buildings. In addition, the International Code Council and the National Fire Protection Association provide requirements for the use of elevators for both occupant evacuation and fire fighter access into the building. However, there still is little understanding of how occupants use elevator systems during fire emergencies.

The focus of this research effort is two-fold: (1) to gain an understanding of how building occupants with mobility impairments currently evacuate multi-story buildings in the United States during fire emergencies, and (2) to learn about the concerns of persons with mobility impairments on using elevators during fire evacuations. This research aims to provide guidance to designers and building managers on aspects of fire evacuation that concern occupants with mobility impairments and on how to improve elevator design and usage during fire emergencies. The research includes four opportunities for participation:

(a) Building managers and designated safety personnel from a sample of four to ten existing and new federal high-rise buildings in the United States will be contacted to complete a questionnaire requesting information on the emergency plans and procedures for the building, including how the buildings' evacuation plans incorporate the use of the existing elevator system to evacuate occupants with mobility impairments during fire emergencies. The building emergency plan will be requested from either the General Services Administration (GSA) or from the building manager.

(b) Occupants with mobility impairments in the buildings identified in part (a) will be asked for basic information on their mobility with

regard to evacuation, previous evacuation experiences, and preferences on how to evacuate during a fire emergency. At the end of the questionnaire, they will be invited to participate in a one-on-one interview to discuss these issues in more detail.

(c) Occupants with mobility impairments identified in part (b) will participate in a one-on-one interview requesting more detailed information on previous evacuation experiences, awareness of emergency procedures, and views and preferences on using an elevator to evacuate during a fire emergency.

(d) Professionals involved with emergency planning (e.g., GSA, USDA, DHS, building emergency managers, researchers) and building occupants with mobility impairments will be invited to participate in one of two focus groups. A preliminary analysis of the data resulting from parts (a) through (c) will be summarized in the form of two sets of potential plans for the use of elevators during fire evacuation by occupants with mobility impairments: one for existing buildings and one for new buildings. Members of the focus groups will review both of these potential plans. They will then participate in a discussion that will lead to guidance for designers and building managers on aspects of fire evacuation that concern occupants with mobility impairments and on how to improve elevator design and usage during fire emergencies. The order of the discussion of plans for existing and new buildings will be switched for the two focus groups to ensure that each plan receives the same amount of attention overall.

Affected Public: Collections (a) and (d): Selected individuals, such as building managers and designated safety personnel, who are familiar with or in charge of developing emergency procedures for multi-story buildings in the United States, including both federal and private sector buildings;

Collections (b) and (c): Selected high-rise building occupants with mobility impairments.

Frequency: One time.

Respondent's Obligation: Voluntary.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OMB Desk Officer, Jasmeet Seehra, FAX Number (202) 395–5167, or *Jasmeet_K._Seehra@omb.eop.gov*).

Dated: May 23, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–12788 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–13–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

[5/10/2013 through 5/22/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
Infinite Enterprises, LLC	46692 Basargin Road, Homer, AK 99603.	5/16/2013	The firm provides cod, salmon, halibut and sablefish fresh and chilled.
Worzalla Publishing Company	3585 Jefferson Street, Stevens Point, WI 54481.	5/15/2013	The firm manufactures books for the children and religious book industry's.
Performance Stamping Co. Inc	20 Lake Marian Road, Carpentersville, IL 60110.	5/17/2013	Firm designs and manufacturers small and medium sized custom progressive die stampings, custom deep draw stampings, compound and blanking die stampings.
J&L Dimensional Services, Inc	16 Industrial Parkway, LaPorte, IN 46350.	5/17/2013	Firm is a finisher of turbine investment castings and provider of layout inspection and fluorescent penetrant inspection services.
Sunset Stone, Inc	702 Prairie Hawk Drive, Castle Rock, CO 80109.	5/17/2013	Firm manufactures artificial stone and stone veneer products.
Peet Shoe Dryer, Inc. (dba Peet Dryer)	919 St. Maries River Road, St. Maries, ID 83861.	5/20/2013	Firm manufacturers electric shoe footwear dryers.
Weidenmiller Company	1464 Industrial Drive, Itasca, IL 60143	5/20/2013	Firm is a food product machinery manufacturer for rotary molder die rolls and rotary cutter die rolls.

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 22, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–12770 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–50–2013]

Foreign-Trade Zone 146—Lawrence County, Illinois; Application for Reorganization and Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Bi-State Authority, grantee of FTZ 146, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on May 20, 2013.

FTZ 146 was approved by the FTZ Board on February 11, 1988 (Board Order 371, 53 FR 5436, 2/24/1988) and expanded on April 18, 2000 (Board Order 1085, 65 FR 24675, 4/27/2000).

The current zone includes the following sites: *Site 1* (43 acres)—Mid-America Air Center, Route 50, Lawrenceville, Lawrence County; and, *Site 2* (62 acres)—Effingham Industrial Park, Effingham, Effingham County.

The grantee's proposed service area under the ASF would be Clay, Crawford, Edwards, Hamilton, Lawrence, Richland and Wayne Counties, Illinois, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Evansville Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include both of the existing sites as ''magnet'' sites. The applicant is also requesting approval of the following ''usage-driven'' site: *Proposed Site 3* (11.5 acres)—Hella Electronics Corporation, 1101 Vincennes Avenue, Flora, Clay County. The application would have no impact on FTZ 146's previously authorized subzones.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 29, 2013. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 13, 2013.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: May 20, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–12799 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–32–2013]

Approval of Subzone Status; Teva Pharmaceuticals USA, Inc.; North Wales, Chalfont, Kutztown and Sellersville, Pennsylvania

On March 18, 2013, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Philadelphia Regional Port Authority, grantee of FTZ 35, requesting subzone status subject to the existing activation limit of FTZ 35, on behalf of Teva Pharmaceuticals USA, Inc., in North Wales, Chalfont, Kutztown and Sellersville, Pennsylvania.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (78 FR 17634–17635, 3–22–2013). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 38F is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13 and further subject to FTZ 35's 2,000-acre activation limit.

Dated: May 23, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–12854 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China; Preliminary Results of Antidumping Duty New Shipper Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting a new shipper review of the antidumping duty order on multilayered wood flooring (''MLWF'') from the People's Republic of China (''PRC''). The period of review (''POR'') is May 26, 2011 through May 31, 2012. The review covers one exporter of subject merchandise, Power Dekor Group Co., Ltd. (''Power Dekor''). We have preliminarily found that Power Dekor has not made sales of subject merchandise at less than normal value.

DATES: *Effective Date:* May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Trisha Tran, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4852.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes MLWF, subject to certain exceptions.[1] The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; and 4418.72.9500.

The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.

Methodology

The Department is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.214. The Department calculated export prices in accordance with section 772 of the Act. Because the PRC is a nonmarket economy (''NME'') within the meaning of section 771(18) of the Act, the Department calculated normal value in accordance with section 773(c) of the Act. Specifically, we valued the respondent's factors of production using the Philippines as the surrogate country, which is economically comparable to the PRC and a significant producer of comparable merchandise.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of New Shipper Review

The Department preliminarily determines that the following weighted-average dumping margin exists:

Exporter	Producer	Weighted-average dumping margin (percent)
Power Dekor Group Co., Ltd	Guangzhou Homebon Timber Manufacturing Co., Ltd	0.00

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review.[2] Rebuttals to written comments may be filed no later than five days after the written comments are filed.[3]

Any interested party may request a hearing within 30 days of publication of this notice.[4] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[5]

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(4), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual

[1] *See* Memorandum from Gary Taverman, Senior Advisor for Antidumping Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration ''Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Multilayered Wood Flooring from the People's Republic of China,'' dated May 23, 2013 (''Preliminary Decision Memorandum'') for a full description of the Scope of the Order.

[2] *See* 19 CFR 351.309(c).

[3] *See* 19 CFR 351.309(d).

[4] *See* 19 CFR 351.310(c).

[5] *See* 19 CFR 351.310(d).

information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value information has passed.[6] Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.[7]

Assessment Rates

Upon issuing the final results of the new shipper review, the Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this new shipper review. For any individually examined respondents whose weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[8]

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this new shipper review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by Power Dekor for this new shipper review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, if the Department determines that the exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[9]

The final results of this new shipper review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For merchandise produced by Guangzhou Homebon Timber Manufacturing Co. Ltd. and exported by Power Dekor, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing producer/exporter-specific combination rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC producer/exporter combination that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: May 23, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Scope of the Order
2. Bona Fide Sale Analysis
3. Non-Market Economy Country Status
4. Separate Rates
5. Surrogate Country
6. Economic Comparability
7. Significant Producer of Comparable Merchandise
8. Data Availability
9. Date of Sale
10. Fair Value Comparisons
11. Differential Pricing Analysis
12. U.S. Price
13. Normal Value
14. Factor Valuations
15. Currency Conversion
16. Section 777A(f) of the Act

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[6] *See, e.g., Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[7] *See* 19 CFR 351.301(c)(3).

[8] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[9] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

Healthcare Trade Mission to Russia, October 21–25, 2013

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The U.S. and Foreign Commercial Service (CS), an agency of the U.S. Department of Commerce's International Trade Administration, is organizing a Healthcare Trade Mission to Moscow and St. Petersburg, Russia from October 21–25, 2013 which will be led by a Senior Commerce official.

Russia, with 140 million consumers and almost unlimited medical needs, presents lucrative opportunities for U.S. companies. In addition Russia's recent membership into the WTO will benefit U.S. exports to Russia. Significant equipment, technologies, and investments are needed in the healthcare sector, specifically in the medical equipment, dental equipment

and biotechnology areas. This healthcare mission will directly contribute to the National Export Initiative (NEI) by assisting U.S. businesses in entering new markets and increasing U.S. exports to Russia. As a result, the mission will focus on U.S. firms and trade associations in the following sectors: medical equipment, dental equipment and biotechnology.

The mission will help participants gain market insights, make industry contacts, solidify business strategies, and advance specific projects with the goal of increasing U.S. exports to Russia. The mission will include one-on-one business appointments with pre-screened potential partners, market briefings, and networking events. Participating companies will enhance their ability to assess the Russian market by joining this official U.S. delegation.

Commercial Setting

Russia is one of the world's fastest growing economies and its healthcare system is evolving rapidly with a promising outlook for U.S. healthcare exports, particularly with medical equipment, dental equipment and biotechnology. It is estimated that only 20% of Russia's population has access to quality healthcare in a system that is {primarily government run} and under-funded.

As a result, approximately 20% of overall health care spending is covered out-of-pocket by patients. Voluntary healthcare insurance programs account for approximately one-third of total private healthcare expenditures. According to future reform plans, mandatory insurance funds will serve as the main source of healthcare funding and will provide transparency and monetary control within the system.

The National Health Project was developed in 2005 and was designed to significantly improve Russian healthcare. From 2011–2013, $15.4 billion was allocated from both the federal budget and the Mandatory Healthcare Insurance Fund. The Program of Healthcare Modernization 2011–2012, aimed at renovating and upgrading healthcare facilities, was financed at $11 billion. In addition, Russian healthcare providers need modern technologies for diagnostics and treatment. Russian patients are becoming more aware of modern medical technologies around the world and expect the same types of treatment in Russia.

In addition to these programs, the Ministry of Health has recently developed a draft government program called ''Development of Healthcare in the Russian Federation.'' This document is currently under review for approval. It contains the principles of preventive medicine, quality of provided healthcare services, education of medical personnel, and overall changes in the healthcare infrastructure.

The Ministry of Industry and Trade is also currently developing a strategy for the development of the medical industry until 2020. With continued growth in this sector, *World Trade Organization (WTO)* accession, and government plans to modernize and invest in Russian healthcare to 2020, American companies should be poised to make significant contributions to this market.

Medical Equipment

The medical equipment sector is one of the fastest growing sectors of the economy. There is a relatively stable macroeconomic situation in Russia with much unsatisfied deferred demand for medical equipment across the country. In addition, the Russian government pays close attention to this field and is making efforts for greater transparency and efficiency, resulting in increased government financing for the purchase of medical equipment. For example, the Program of High-Tech Medical Assistance 2011–2013 was financed at $4 billion.

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Since commercialization of medical equipment manufactured in Russia remains low, the market for medical equipment is heavily dependent on imports. The average annual increase in the import market for medical equipment from 2006 to 2011 was approximately 23%. Medical equipment imports in 2006 were $14.2 billion with steady growth to $41 billion in 2011.

In 2011, the market for specific subsector of diagnostics and imaging equipment was estimated at $4.9 billion. During the next nine years the experts expect the yearly market growth at 13.5%. This includes diagnostics and imaging equipment, cardiovascular equipment, ophthalmology, orthopedics, laboratory diagnostics and urology.

Membership in the WTO will also benefit foreign exports to Russia. After full implementation of the WTO accession and Permanent Normal Trade Relations, tariffs for medical equipment are estimated to range from 0% to 7%. Currently, tariffs range as high as 15% to 20%.

Dental Equipment

The Russian dental market is also an area that is expanding and showing good growth potential. In 2011, total world imports into Russia for dental equipment were approximately $500 million and the total market for dental services was approximately $6 billion.

The number of clinics, practicing dentists, technicians and patient visits are all on the rise. There are over 9,500 dental units operating in Moscow, with 3,000 state clinics and over 6,500 private clinics. There are 670 municipal dental clinics and 2900 dental departments within those clinics.

The highest level of {dental industry privatization} is in the Moscow region. The number of practicing dentists in Russia is 68,000, of which 35,000 are members of the Russian Dental Association. The number of patient visits is approximately 150 million a year. However, the ratio of dentists to patients in Russia is still only 45/100,000 people, which is below levels in the U.S and most European countries. In the U.S., the ratio of patients to dentists is 60/100,000.

The dental market is one of the most highly controlled and organized markets in Russia. The largest associations are the Russian Dental Association which has 69 regional divisions and the Dental Industry (DI ROSI) which has 45 member companies. These associations play an important role in the introduction of new technologies and practices, actively participate in trade events and publish in professional journals. As a result, they have a large impact on the industry. The two major dental universities are Moscow State Medical and Dental University and the Sechenov Medical Academy in Moscow.

Domestic production of dental equipment is insufficient in Russia and produces very few new products. Local manufacturers such as Averon, VladMiVa, Raduga Rossii, Geosoft, Stomadent Omega, and Tselit produce a wide range of dental equipment. Since Russia's domestic dental production level meets only 20% of total demand, imports play a significant role in the market. The majority of dental equipment is supplied from the U.S,

Germany, France, Switzerland, Japan, and other countries.

Many large U.S. and international companies have offices in Russia, including Densply, 3M, Nobel Biocare, Mileston, Midmarek, 3i, Sirona, Kavo, Colgate, Kodak-Eastman, Philips-Sonicare, Discuss Dental (now owned by Philips), Oral B, and Wrigley Adeck.

There are about 500 distributors of dental equipment in Russia. The major distributors are located in Moscow and work in other regions through smaller local distributors or through regional representatives. Import customs clearances are executed more easily in larger cities like Moscow and St. Petersburg. There are strict product registration and certification procedures necessary for the release of dental equipment into the market. The registration and certification process can be complicated, time-consuming, and expensive. It may require a regular market presence by the manufacturer or an authorized representative with competent Russian language skills and knowledge of the local market to be able to complete the process.

Biotechnology

In the last several years, Russia has been developing an innovative modern economy by focusing on information technologies and nanotechnologies. The biotechnologies area has large potential and is underdeveloped, but is evolving because of the need to extend life expectancies within the country. Large companies like Celgene, Amgen, and Genzyme are established in the market and are already working in the biotechnology field. Despite the fact that major companies from Europe and the U.S. have already entered the market, there is still room for small innovative companies in the biotechnology area. Good examples include two small biotechnology companies, Bind and Selecta, who have recently opened offices in Russia to start R & D which is a priority of the Russian government.

The Government Commission on High Technologies and Innovations signed a decision in April, 2011 to create a State Coordination Program for the Development of Biotechnology in the Russian Federation until 2020. The Ministry of Economic Development is responsible for this program which focuses on several areas including biopharmaceuticals and biomedicine.

Biopharmaceuticals (essential medicines, including biogenerics, hormones, cytokines, therapeutic monoclonal antibodies, peptides, phytomedicines, new generation vaccines, antibiotics and bacteriophages).

Biomedicine (molecular diagnostics, personalized medicine, engineered cell and tissue for therapeutic purposes, biocompatible materials).

The Russian market of biopharmaceuticals in 2010 was estimated at $2.2 billion, of which $1.3 billion was dedicated to cytokines, genetically engineered hormones (including insulin), coagulants and therapeutic enzymes, monoclonal antibodies ($350 million), and vaccines ($350 million). The sales of the two former antibodies and vaccines are expected to rise to $480 million and $370 million respectively by the year 2015.

The Russian biomedicine market is focused on the development and manufacturing of biotechnological products for the diagnosis and treatment of human diseases and for the prevention of harmful effects of the environment on humans. The world market of biotechnology (used for molecular genetics diagnostic technologies) was $13.5 billion in 2010, and is expected to be $33.3 billion by 2015. The access to credible biomedicine data for the Russian market is low because the segment has not been fully developed, but it is expected to mature in the near future.

Biotechnology is a large part of the overall pharmaceutical sector. According to industry experts, Russia is currently one of the ten largest pharmaceutical markets in the world. In 2011, the pharmaceutical market volume amounted to $26 billion in end user prices, which is 12% higher than in 2010.

An important recent trend was the planning and formation of ''pharmaceutical clusters''. This was due in part to the completion of the ''Strategy of Development of the Pharmaceutical Industry—2020'', developed by the Ministry of Industry and Trade which outlines some government priorities.

The Russian pharmaceutical market is import driven with 76% of drugs taken in Russia produced abroad. The only domestic manufacturer in the top 20 leading players in the Russian pharmaceutical market is Pharmstandart.

Mission Goals

The goal of the Healthcare Trade Mission to Russia is to promote the export of U.S. goods and services by: (1) introducing U.S. companies to industry representatives and potential clients and partners; and (2) introducing U.S. companies to industry experts to learn about policy initiatives that will impact the Russian healthcare industry in general as well as the major segments: medical equipment, dental equipment and biotechnology.

Mission Scenario

In Moscow, trade mission members will participate in an Embassy briefing from industry experts and take part in one-on-one business appointments with private-sector organizations and/or government agencies as appropriate. In addition, they will enjoy a networking event with industry leaders and partners. In St. Petersburg, all of the delegates will have customized one-on-one business appointments and attend another networking reception.

Matchmaking efforts will involve partners such as the Association of International Pharmaceutical Manufacturers (AIPM), Innovative Pharma, Association of International Manufacturers of Medical Devices (IMEDA), and the American Chamber of Commerce in Russia. U.S. participants will be counseled before, during, and after the mission by CS Russia staff actively involved in the healthcare trade mission.

PROPOSED TIMETABLE

Sunday, October 20, Day 1	Arrival into Moscow. Informal greeting at hotel and no host dinner.
Monday, October 21, Day 2	Moscow. Briefing by the U.S. Embassy and industry experts. Site Visits in afternoon.
Tuesday, October 22, Day 3	Moscow. One-on-one business appointments. Networking reception.
Wednesday, October 23, Day 4	Depart for St. Petersburg. Travel day and free evening in St. Petersburg.

PROPOSED TIMETABLE—Continued

Thursday, October 24, Day 5	St. Petersburg. One-on-one business appointments. Networking reception.
Friday, October 25, Day 6	St. Petersburg. Additional meetings and follow-up appointments. Departure for the U.S. (Friday evening or Saturday, June 8).

Participation Requirements

All parties interested in participating in the Healthcare Trade Mission to Russia must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 U.S. companies and/or trade associations and maximum of 20 companies and/or trade associations will be selected to participate in the mission from the applicant pool. U.S. companies or trade associations already doing business with Russia, as well as U.S. companies or trade associations seeking to enter these countries for the first time may apply.

Fees and Expenses

After a company or trade association has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $*4,050* for large firms and $*3,830* for a small or medium-sized enterprise (SME) or small organization, which will cover one representative.*[1] The fee for an additional representative (SME or large company) is $750.00

Exceptions

Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms as of Sunday, October 20 through to Wednesday, October 23 in Moscow and Wednesday through Friday, October 25 in St. Petersburg. Please note that the trade mission begins in Moscow and ends in St. Petersburg. Early arrival nights in Moscow, return transportation to Moscow from St. Petersburg, or the extension of stay in St. Petersburg will be the responsibility of the participants.

Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Criteria for Participation

Selection will be based on the following criteria:

1. Suitability of the company's products or services to the market. Please note that due to Government procurement restrictions the Russian healthcare market is not receptive to used or refurbished products. For the purpose of this mission therefore, participants may not promote used or refurbished goods in the context of this mission.

2. Applicant's potential for business in Russia and in the region, including likelihood of exports resulting from the mission.

3. Consistency of the applicant's goals and objectives with the stated scope of the mission.

Diversity of company or trade association size, sector or subsector, and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register** (*http://www.gpoaccess.gov/fr*), posting on ITA's trade mission calendar (*http://export.gov/trademissions*), and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment will begin immediately and conclude no later than COB July 29, 2013. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis until the maximum of fifteen participants is reached. We will inform all applicants of selection decisions as soon as possible after the applications are reviewed. Applications received after the July 29th deadline will be considered only if space and scheduling constraints permit.

Contacts

Anne Novak, U.S. Commercial Service, Washington, DC, Tel: (202) 482–8178, *Anne.Novak@trade.gov.*
Jessica Arnold, U.S. Commercial Service, Washington, DC, Tel: (202) 482–2026, *Jessica.Arnold@trade.gov.*
Timothy Cannon, U.S. Commercial Service, U.S. Embassy, Moscow, Tel: +7 495 728 55 32, *Timothy.Cannon@trade.gov.*

Dated: Elnora Moye,

Trade Program Assistant.

[FR Doc. 2013–12792 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–FP–P

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* May 30, 2013.

SUMMARY: The Department of Commerce (''Department'') hereby publishes a list of scope rulings and anticircumvention

determinations made between October 1, 2012, and December 31, 2012. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats, AD/CVD Operations, China/NME Group, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–2615.

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis.[1] Our most recent notification of scope rulings was published on February 8, 2013.[2] This current notice covers all scope rulings and anticircumvention determinations made by Import Administration between October 1, 2012, and December 31, 2012, inclusive. As described below, subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Made Between October 1, 2012, and December 31, 2012:

Mexico

A–201–805: Circular Welded Non-Alloy Steel Pipe From Mexico

Requestor: LDA Incorporado; finished electrical rigid metal conduit produced by PYTCO, S.A. de C.V. and finished electrical metal tubing produced by Conduit, S.A. de C.V. are not within the scope of the antidumping duty order; November 15, 2012.

People's Republic of China

A–570–836: Glycine From the People's Republic of China

Requestor: Self-initiated by the Department; glycine exported from the People's Republic of China that is further processed in India is within the scope of the antidumping duty order; December 3, 2012.

A–570–886: Polyethylene Retail Carrier Bags From the People's Republic of China

Requestor: NextDoor Design & Manufacturing LLC; its valet laundry bag is not within the scope of the antidumping duty order; October 5, 2012.

A–570–890: Wooden Bedroom Furniture From the People's Republic of China

Requestor: Medline Industries, Inc.; Medline's Hospital Bed End Panels are within the scope of the antidumping duty order; December 21, 2012.

A–570–901: Certain Lined Paper Products From the People's Republic of China

Requestor: Esselte Corporation: Oxford Stone Paper Note Books are within the scope of the antidumping duty order; preliminary ruling December 28, 2012.

A–570–904: Activated Carbon From the People's Republic of China

Requestor: Tobacco Import USA (''TIU''); hookah charcoal tablets imported by TIU are not within the scope of the antidumping duty order; December 17, 2012.

A–570–937/C–570–938: Citric Acid and Certain Citrate Salts From the People's Republic of China

Requestor: The Chemical Company; acetyl tributyl citrate is not within the scope of the antidumping duty and countervailing duty orders; November 19, 2012.

A–570–967/C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: A.O. Smith Corporation; aluminum anodes for water heaters are not within the scope of the antidumping duty and countervailing duty orders; October 17, 2012.

Requestor: Innovative Controls Inc.; side mount valve controls are not within the scope of the antidumping duty and countervailing duty orders; October 26, 2012.

Requestor: Clenergy (Xiamen) Technology Co. Ltd. (''Clenergy''); Clenergy's solar panel mounting systems are not within the scope of the antidumping duty and countervailing duty orders; October 31, 2012.

Requestor: Valeo Group and its affiliates; certain aluminum inlet parts for automotive heating and cooling systems are within the scope of the antidumping duty and countervailing duty orders; October 31, 2012.

Requestor: Plasticoid Manufacturing Inc.; certain finished aluminum rails for cutting and marking straight edges are within the scope of the antidumping duty and countervailing duty orders; November 13, 2012.

Requestor: Signtex Lighting, Inc.; aluminum mounting plates are within the scope of the antidumping duty and countervailing duty orders; November 14, 2012.

Requestor: UQM Technologies Inc.; certain assembled motor cases are within the scope of the antidumping duty and countervailing duty orders; certain assembled motor cases in stators are not within the scope of the antidumping duty and countervailing duty orders; November 19, 2012.

Requestor: Northern California Glass Management Association and the Curtain Wall Coalition; curtain wall units and other parts and components of curtain walls are within the scope of the antidumping duty and countervailing duty orders; November 30, 2012.

Requestor: Meridian Products LLC; certain refrigerator/freezer trim kits are within the scope of the antidumping duty and countervailing duty orders; December 19 2012.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Signature Brands, LLC; 17 of its birthday candles are within the scope of the antidumping duty order; five of its birthday candle models are not within the scope of the antidumping duty order; preliminary ruling October 5, 2012.

Taiwan

A–583–843: Polyethylene Retail Carrier Bags From Taiwan

Requestor: SmileMakers, Inc.; its model Item #TSHP bag is within the scope of the antidumping duty order; November 19, 2012.

Multiple Countries

A–201–837/A–570–954/C–570–955: Certain Magnesia Carbon Bricks From the People's Republic of China and Mexico

Requestor: Duferco Steel Inc.; its tap hole sleeve systems are not within the scope of the antidumping and countervailing duty orders; October 31, 2012.

Anticircumvention Determinations Made Between October 1, 2012, and December 31, 2012:

People's Republic of China

A–570–836: Glycine From the People's Republic of China

Requestor: GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc.; all glycine produced and/or exported by AICO Laboratories India Ltd. and Salvi Chemical Industries Limited is circumventing the antidumping duty order; December 10, 2012.

A–570–932: Certain Steel Threaded Rod From the People's Republic of China

Requestor: Vulcan Threaded Products, Inc.; certain steel threaded rod containing greater than 1.25 percent chromium exported by Gem-Year Industrial Co. Ltd., is circumventing the

[1] *See* 19 CFR 351.225(o).

[2] *See Notice of Scope Rulings,* 78 FR 9370 (February 8, 2013).

antidumping duty order; preliminary ruling December 4, 2012.

Interested parties are invited to comment on the completeness of this list of completed scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Import Administration, International Trade Administration, 14th Street and Constitution Avenue NW., APO/Dockets Unit, Room 1870, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: May 17, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–12765 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC600

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an exempted fishing permit application contains all of the required information and warrants further consideration. This exempted fishing permit would exempt commercial fishing vessels from the prohibition on landing unshucked surfclams into any container other than a standard surfclam/ocean quahog cage, and would allow project participants to test alternatives to the industry standard cage used in the Atlantic surfclam fishery. The research would be coordinated by the Cape Cod Commercial Hook Fishermen's Association.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permit.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email: nero.efp@noaa.gov.* Include in the subject line ''Comments on CCCHFA Atlantic surfclam EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on CCCHFA Atlantic surfclam EFP.''
- *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, 978–281–9177, *Jason.Berthiaume@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Cape Cod Commercial Hook Fishermen's Association (CCCHFA) submitted a complete application for an exempted fishing permit on May 14, 2013, to conduct commercial fishing activities that the regulations would otherwise restrict. The Exempted Fishing Permit (EFP) would authorize up to three vessels to research the feasibility of a day-boat Atlantic surfclam fishery for smaller vessels based out of Cape Cod by testing alternatives to the large industry-standard cages and 32-bu (1,703.68 L) cage tags. The traditional cages do not fit on smaller day-boats and, as a result, vessels not capable of carrying a cage onboard must offload directly into cages. The applicant stated that offloading into cages can be burdensome and dangerous and the extra handling and the compression of clams in the bottom of the cage can lead to damaged product. The CCCHFA proposes to explore the use of smaller containers that would result in less damaged product, thus creating a market for a lower volume, high quality product.

In addition, the applicant seeks to devise a means for tagging and quantifying cage equivalents. The Atlantic surfclam fishery manages quota allocations by using a tagging system, with each tag representing 32 bu (1,703.68 L) of allocation, or one cage. In addition to managing allocations, the tagging requirement is also important to maintain product chain of custody to allow harvested product to be tracked and disposed of, in the event the shellfish are harvested from contaminated waters and are determined to not be fit for human consumption. For these reasons, every cage containing surfclams must remain tagged from when the clams are first offloaded to the point of final disposition. Because this exempted fishing permit would exempt the cage requirements, by default the cage-tagging requirements would not be applicable. However, because tags are essential to carrying out the surfclam fishery, the applicants would work with NMFS and the National Band and Tag Company to convert standard cage tags into single-bushel tags to ensure all product harvested would be tagged. To allow for the flexibility to test a variety of experimental cage alternatives, 1-bu (53.24–L) tags would be developed and utilized on all cage alternatives.

Surfclams would be landed in bushel increments using standardized fishery bushel methodology. Participants propose to test the viability of three different cage alternatives:

1. Standardized shellfish bag (1 bu (53.24 L));
2. Standardized stackable fish tote (1 bu (53.24 L)); and
3. Standardized fish vat (used for skates and dogfish) (16 bu (851.84 L)).

Standardized shellfish bags and stackable fish totes would each hold 1 bu (53.24 L) and would be tagged with a 1-bu (53.24–L) tag. The standardized fish vat measures nearly 16 bu (851.84 L), and would be tagged with no fewer than sixteen, 1-bu (53.24–L) tags. The shellfish bags and fish totes would be further constrained to weigh no more than 89 lb (40.4 kg), the standard weight equivalent of a single bushel of clams.

Quota and tags would be tracked using methods consistent with the standard Atlantic surfclam fishery reporting requirements. All Atlantic surfclams would be sold to federally permitted dealers. In addition, when offloading to the dealer, weight samples would be taken to verify weights as to further develop the experimental containers.

The target species would be Atlantic surfclam, with some possible landings of stinson's clams. All clams caught would be sold and would be applied against the CCCHFA quota allocation of 31,136 bu (1.6 million L). A 4-ft (122-cm) hydraulic clam dredge would be used on 30–40, 15-min tows, on up to 150 trips. The research would be conducted from June through October, in Federal waters surrounding Nantucket Island within 30 mi (48 km) of shore.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the

scope of the exempted fishing activity would be prohibited.

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

Dated: May 24, 2013.

James P. Burgess,

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

[FR Doc. 2013–12862 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC597

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an exempted fishing permit application contains all of the required information and warrants further consideration. This exempted fishing permit would exempt vessels from monkfish days-at-sea possession limits to commercially harvest monkfish during compensation fishing in support of a project funded under the 2012 Monkfish Research Set-Aside Program. The primary goal of the research is to validate monkfish aging methods and would be conducted by the University of Massachusetts, Dartmouth, School for Marine Science and Technology.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: You may submit written comments by any of the following methods:

• *Email: nero.efp@noaa.gov.* Include in the subject line ''Comments on SMAST Monkfish RSA EFP.''

•*Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on SMAST monkfish RSA EFP.''

• *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, 978–281–9177.

SUPPLEMENTARY INFORMATION: The University of Massachusetts, Dartmouth, School for Marine Science and Technology (SMAST) submitted a complete application for an exempted fishing permit (EFP) on January 7, 2013, to conduct fishing activities that the regulations would otherwise prohibit. The EFP would exempt compensation fishing vessels from monkfish days-at-sea (DAS) possession limits in the Northern and Southern Monkfish Fishery Management Areas (NFMA and SFMA). Fishing activity would otherwise be conducted under normal monkfish commercial fishing practices. The vessels would use standard commercial gear and land monkfish for sale. Compensation fishing may occur through April 2014.

SMAST has been awarded 129 monkfish DAS under the 2012 Monkfish Research Set-Aside (RSA) Program to conduct research that focuses on validating the age of monkfish by incorporating a chemical marker into the age structures in a laboratory study and examining the influence of temperature. To facilitate compensation fishing in support of this research, the applicant has requested exemptions from monkfish DAS possession limits at 50 CFR 648.94(b)(1) and (2). The applicant stated that these exemptions would provide the vessels with flexibility to fulfill the financial needs of the project, while minimizing vessel operating expenses.

Monkfish EFPs that waive possession limits were first issued in 2007, and each year thereafter through 2011. The EFPs were approved to increase operational efficiency and to optimize research funds generated from RSA DAS. To ensure that the amount of monkfish harvested by vessels operating under the EFPs was similar to the amount of monkfish that was anticipated to be harvested under the 500 RSA DAS set-aside by the New England Fishery Management Council, NMFS has used 3,600 lb (1,633 kg) of whole monkfish per RSA DAS. This amount of monkfish was the equivalent of a double possession limit of Permit Category A and C vessels fishing in the SFMA. This was deemed a reasonable approximation because it was reflective of how the standard monkfish commercial fishery operates. It is likely that RSA grant recipients optimize their RSA DAS award by utilizing this possession limit.

SMAST developed its RSA proposal and budget in a manner that was consistent with previously approved EFPs. However, prior to submission of the RSA proposal, NMFS implemented Amendment 5 to the Monkfish FMP. Amendment 5 adjusted the tail-to-whole-weight conversion factor from 3.32 to 2.91, which essentially reduced the whole weight possession limits. Because this project was originally awarded DAS in fishing year 2012 and the budget was designed using 3,600 lb (1,633 kg) per DAS, the EFP, if approved, would allow this project to continue operating under this limit until the project's conclusion on April 30, 2014. This project was awarded 129 DAS. Therefore, participating vessels could use up to 129 DAS, catch up to 464,400 lb (210,648 kg) whole monkfish, or fish under the EFP until April 30, 2014, whichever comes first.

When applicable, or as required by the regulations, participating vessels may also concurrently use Northeast multispecies DAS while conducting monkfish compensation fishing. All catch of Northeast multispecies would be accounted for under applicable Northeast multispecies quotas.

If approved, the applicant may request minor modifications to the EFP throughout the year. EFP modifications may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: May 24, 2013.

James P. Burgess,

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

[FR Doc. 2013–12864 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC551

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an exempted fishing permit application contains all of the required information and warrants further consideration. This exempted fishing permit would exempt vessels from monkfish days-at-sea possession limits to commercially harvest monkfish during compensation fishing in support of a project funded under the Monkfish Research Set-Aside Program. The primary goal of the research is to determine if monkfish constitute a single or multiple stocks over their coast-wide distribution and would be conducted by the Cornell Cooperative Extension of Suffolk County Marine Program.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email: nero.efp@noaa.gov.* Include in the subject line ''Comments on CCE Monkfish RSA EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on CCE monkfish RSA EFP.''
- *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, 978–281–9177.

SUPPLEMENTARY INFORMATION: The Cornell Cooperative Extension (CCE) was awarded 371 days-at-sea (DAS) under the 2012 Monkfish Research Set-Aside (RSA) Program. The primary goal of the study is to determine if monkfish constitute one or more stocks over their coast-wide distribution. CCE is using a genetic approach with microsatellite DNA analysis. Biological samples are being collected throughout the monkfish range. The vessels are using standard commercial gear and are landing monkfish for sale, but the sampling locations are determined by CCE. The research is being conducted under normal monkfish commercial fishing practices. Thirty vessels have been identified by the researcher to conduct compensation fishing under the exempted fishing permit (EFP).

To conduct compensation fishing in support of the project, CCE submitted a complete application for an EFP on April 17, 2012, requesting exemptions from the monkfish DAS possession limits. However, due to the complications resulting from the Endangered Species Act listing of Atlantic sturgeon, an EFP for the project was not approved. To mitigate concerns with Atlantic sturgeon, the applicant modified its EFP application to only conduct compensation fishing in offshore waters and submitted a modified application on March 5, 2013. The modified EFP was approved on May 21, 2013, which authorized participating vessels to fish seaward of 50 fathoms, where Atlantic sturgeon interactions are extremely rare.

However, during the EFP review process, the Northeast Fisheries Science Center published an updated analysis on Atlantic sturgeon abundance estimates, which are substantially higher than previous estimates (Kocik *et al.* 2013).[1] As a result, the applicant is now requesting that vessels operating under the EFP not be limited to waters deeper than 50 fathoms. This revision would allow compensation fishing to be conducted throughout the entire monkfish range where monkfish fishing is allowed.

The revised EFP would exempt vessels from monkfish DAS possession limits in the Northern and Southern Monkfish Fishery Management Areas. Category F vessels would be charged monkfish RSA DAS at a higher pro-rated rate of 2.909:1 RSA DAS for Category A and C vessels and 3.555:1 RSA DAS for Category B and D vessels, consistent with the Monkfish Fishery Management Plan.

Monkfish EFPs that waive possession limits were first issued in 2007, and each year thereafter through 2011. The EFPs were approved to increase operational efficiency and to optimize research funds generated from RSA DAS. To ensure that the amount of monkfish harvested by vessels operating under the EFPs was similar to the amount of monkfish that was anticipated to be harvested under the 500 RSA DAS set-aside by the New England Fishery Management Council, NMFS has used 3,600 lb (1,633 kg) of whole monkfish per RSA DAS. This amount of monkfish was the equivalent of a double possession limit of Permit Category A and C vessels fishing in the SFMA. This was deemed a reasonable approximation because it was reflective of how the standard monkfish commercial fishery operates. It is likely that RSA grant recipients optimize their RSA DAS award by utilizing this possession limit.

CCE developed its RSA proposal and budget in a manner that was consistent with previously approved EFPs. However, prior to submission of the RSA proposal, NMFS implemented Amendment 5 to the Monkfish FMP. Amendment 5 adjusted the tail-to-whole-weight conversion factor from 3.32 to 2.91, which essentially reduced the whole weight possession limits. Because this project was originally awarded DAS in fishing year 2012 and the budget was designed using 3,600 lb (1,633 kg) per DAS, the EFP, if approved, would allow this project to continue operating under this limit until the project's conclusion on April 30, 2014. This project was awarded 371 DAS. Therefore, participating vessels could use up to 371 DAS, or catch up to 900,000 lb (408,233 kg) of whole monkfish, or fish under the EFP until April 30, 2014, whichever comes first.

When applicable, or as required by the regulations, participating vessels may also concurrently use Northeast multispecies DAS while conducting monkfish compensation fishing. All catch of Northeast multispecies would be accounted for under applicable Northeast multispecies quotas.

If approved, the applicant may request minor modifications to the EFP throughout the year. EFP modifications may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: May 24, 2013.

James P. Burgess,

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

[FR Doc. 2013–12866 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–22–P

[1] Kocik J., Lipsky C, Miller T, Rago P, Shepherd G. 2013. An Atlantic Sturgeon Population Index for ESA Management Analysis. U.S. Dept Commer, Northeast Fish Sci Cent Ref Doc. 13–06; 36 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543–1026, or online at: *www.nefsc.noaa.gov/nefsc/publications/.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC062

Draft 2012 Marine Mammal Stock Assessment Reports

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

ACTION: Notification of availability; response to comments.

SUMMARY: NMFS reviewed the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports (SARs) in accordance with the Marine Mammal Protection Act, and solicited public comment on draft 2012 SARs. Subsequently, SARs for ten stocks of marine mammals in the Atlantic region have been updated with revised abundance estimates and some corrections to bycatch estimates. These ten reports are final and available to the public.

ADDRESSES: The 2012 final SARs and supporting documentation are available in electronic form via the Internet at *http://www.nmfs.noaa.gov/pr/sars/species.htm.* Copies of the Atlantic SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov;* or Gordon Waring, 508–495–2311, *Gordon.Waring@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every three years for non-strategic stocks. The term strategic stock means a marine mammal stock: (A) For which the level of direct human-caused mortality exceeds the potential biological removal level; (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the Endangered Species Act. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific independent Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in the Alaska, Atlantic, and Pacific regions to incorporate new information. NMFS solicited public comments on the draft 2012 SARs on August 7, 2012 (77 FR 47043); the 90-day public comment period closed on November 5, 2012.

Subsequent to soliciting public comment on the draft 2012 SARs, NMFS revised the 2011 abundance estimates and the 2010 northeast sink gillnet serious injury and mortality estimates for several Atlantic marine mammal stocks after discovering errors based upon further review of the abundance estimation methods and upon receiving updated bycatch data. This new information prompted the agency to correct and revise the SARs for the following marine mammal stocks affected by these updates: fin whale, western North Atlantic stock; sei whale, Nova Scotia stock; minke whale Canadian east coast stock; sperm whale, North Atlantic stock; Cuvier's beaked whale, western North Atlantic stock; Gervais' beaked whale, western North Atlantic stock; Sowerby's beaked whale, western North Atlantic stock; Risso's dolphin, western North Atlantic stock; Atlantic white-sided dolphin, western North Atlantic stock; and harbor porpoise, Gulf of Maine/Bay of Fundy stock. NMFS solicited public comment on the revised draft 2012 SARs for these ten stocks (78 FR 3399, January 16, 2013). The public comment period on the revised reports closed on April 16, 2013. This notice announces the availability of the final 2012 reports for the ten stocks identified above; the reports are available on NMFS' Web site (see **ADDRESSES**).

Comments and Responses

NMFS received comments on the ten revised draft Atlantic SARs from the Marine Mammal Commission (Commission), the Humane Society of the United States and the Center for Biological Diversity, two individuals, and the National Park Service.

Comment 1: The Commission recommends that NMFS expand the report for the Gulf of Maine harbor porpoise either to include a trend analysis and explanation, or to describe the reasons that the analysis and explanation cannot be provided. If the latter, then the Service also should explain how it plans to rectify the problem(s).

Response: The trend section of the report was revised to include the following text: ''A trend analysis has not been conducted for this stock. The statistical power to detect a trend in abundance for this stock is poor due to the relatively imprecise abundance estimates and long survey interval. For example, the power to detect a precipitous decline in abundance (i.e., 50% decrease in 15 years) with estimates of low precision (e.g., CV > 0.30) remains below 80% (alpha = 0.30) unless surveys are conducted on an annual basis (Taylor *et al.* 2007).''

Comment 2: The Commission recommends that NMFS contact Canadian officials to (1) determine the feasibility of an analysis of port catch levels to estimate the number of harbor porpoises caught in the Canadian Bay of Fundy sink gillnet fishery since 2002, and (2) pursue the development of a reliable means for estimating harbor porpoise bycatch in the Canadian Bay of Fundy.

Response: As recommended by the Commission, NMFS Northeast Fisheries Science Center Protected Species Branch is contacting Canadian Department of Fisheries and Oceans officials to obtain information on the status of the fishery and harbor porpoise bycatch.

Comment 3: The ''Other Mortality'' section of the white-sided dolphin SAR cites Bogomolni as finding that 21 percent of strandings of this species were disease-related. We did not have access to this publication, but if the nature of the diseases affecting these animals was determined, it would be useful to specify whether all of them died as a result of the same or a variety of pathogens. Since many pollutants compromise immune systems of animals, patterns in cause of death are helpful to provide insight into environmental health and/or threats to the species.

Response: The focus of the Bogomolni *et al.* (2010) publication was to categorize stranding mortalities into broad diagnoses such as disease, human-interaction, mass-stranding, etc.

The authors mention that the most frequently found disease processes were bacterial pneumonia and sepsis/bacteremia secondary to pyoderma, but, other than mentioning a few specific disease findings, do not detail or analyze frequency of all the diseases found in each species. The Bogomolni *et al.* 2010 paper is open access and available at *http://www.int-res.com/articles/dao_oa/d088p143.pdf.* We have rewritten the sentence slightly to read: ''In an analysis of mortality causes of stranded marine mammals on Cape Cod and southeastern Massachusetts between 2000 and 2006, Bogomolni *et al.* (2010) found 69% (46 of 67) of stranded white-sided dolphins were involved in mass-stranding events with no significant findings, and 21% (14 of 67) were classified as disease related.''

Comment 4: The Humane Society of the U.S. and the Center for Biological Diversity commented that the Atlantic Scientific Review Group (SRG) was not consulted prior to NMFS using these revised abundance and bycatch estimates for management purposes. The commenters believe the errors in computation and the proposed changes to the SARs should have been brought to the attention of the SRG prior to being used in management or presented to the public as part of any take reduction team process. In the future, if NMFS is considering amending a SAR after a draft was released for public comment, it should first consult with the appropriate SRG prior to using a revised SAR for purposes of management of a stock.

Response: The issues raised by the Humane Society of the U.S. and the Center for Biological Diversity were addressed at the March 2013 Atlantic SRG meeting. NMFS and the SRG delineated a process that will ensure SRG review of new or revised abundance and mortality estimates and methods prior to their release at other forums (e.g., Take Reduction Teams).

Dated: May 23, 2012.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–12869 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC700

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that NMFS has prepared a draft Environmental Assessment under the National Environmental Policy Act (NEPA) of the potential effects of the issuance of a direct take permit for a hatchery program in Nason Creek, in the upper Columbia River basin. The permit application was provided by the Washington Department of Fish and Wildlife (WDFW) and the Public Utility District No. 2 of Grant County (Grant PUD). The proposed permit would be issued for a period of 10 years. This document serves to notify the public of the draft environmental assessment for public review, comment, and submission of written data, views, arguments, or other relevant information before a final decision on whether to issue a Finding of No Significant Impact is made by NMFS. Also available for public review and comment are two addenda, one updating the Nason Creek application and one describing a proposed adult management program associated with spring Chinook salmon hatchery plans for major tributaries to the Wenatchee River. All comments and other information received will become part of the public record and will be available for review pursuant to section 10(c) of the ESA.

DATES: Comments and other submissions must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5:00 p.m. Pacific time on June 13, 2013.

ADDRESSES: Written responses to the draft environmental assessment should be sent to Allyson Purcell, National Marine Fisheries Services, Salmon Management Division, 1201 N.E. Lloyd Boulevard, Suite 1100, Portland, OR 97232. Comments may also be submitted by email to: *NasonCreekPlan.nwr@noaa.gov.* Include in the subject line of the email comment the following identifier: Comments on the Nason Creek Hatchery Assessment. When commenting on the draft environmental assessment, please refer to the specific page number and line number of the subject of your comment. Comments may also be sent via facsimile (fax) to (503) 872–2737. Requests for copies of the draft environmental assessment should be directed to the National Marine Fisheries Services, Salmon Management Division, 1201 N.E. Lloyd Boulevard, Suite 1100, Portland, OR 97232. The documents are also available on the Internet at *www.nwr.noaa.gov.* Comments received will also be available for public inspection, by appointment, during normal business hours by calling (503) 230–5418.

FOR FURTHER INFORMATION CONTACT: Allyson Purcell at (503) 736–4736 or email: *allyson.purcell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

Chinook salmon (*Oncorhynchus tshawytscha*): endangered, naturally produced and artificially propagated Upper Columbia River spring-run.

Steelhead (*Oncorhynchus mykiss*): threatened, naturally produced and artificially propagated Upper Columbia.

Background

Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits to take listed species for any act otherwise prohibited by section 9 for scientific purposes or to enhance the propagation or survival of the affected species, under section 10(a)(1)(A) of the ESA. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

On September 15, 2009, Grant PUD and the Washington Department of Fish and Wildlife submitted an application for an ESA permit to operate the Nason Creek spring Chinook salmon artificial propagation (hatchery) program. That application was made available previously for public review and comment (75 FR 14133, March 24, 2010). The hatchery program would collect adult spring Chinook salmon at Tumwater Dam or a Nason Creek weir; spawn, incubate, hatch, and rear the resulting progeny at Eastbank Hatchery and an acclimation facility to be constructed on Nason Creek; release juvenile Chinook salmon into Nason Creek; and manage natural and hatchery adult returns. Adult natural-origin fish in excess of broodstock needs could be

released to spawn naturally; adult hatchery-origin fish in excess of broodstock needs could be used for nutrient enhancement or be made available for harvest. The application describes monitoring and evaluation activities that would also occur. The purpose of this program is to enable Grant PUD to comply with the terms of the Priest Rapids Project Salmon and Steelhead Settlement Agreement and its Federal Energy Regulatory Commission license for the operation of the Priest Rapids Hydroelectric Project.

Subsequent to providing the original application, the WDFW provided an addendum to the HGMP describing how management of returning adult spring Chinook salmon would be addressed in conjunction with the hatchery program. The adult management plan represents an important component of the permit application.

Authority

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may affect the human environment. NMFS expects to take action on an application for a permit under section 10(a)(1)(A) of the ESA. Therefore, NMFS is seeking public input on the scope of the required NEPA analysis, including the range of reasonable alternatives and associated impacts of any alternatives.

Dated: May 24, 2013.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–12814 Filed 5–29–13; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed renewal of the Peer Reviewer Application (OMB Number 3045–0090), used by CNCS to recruit external reviewers to assess grant applications. The information will be provided by individuals wishing to serve as peer review participants for CNCS' grant review processes. The completion of this information collection is required to be considered as a potential reviewer for CNCS.

Copies of the information collection request can be obtained by contacting the office listed in the addresses section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by July 29, 2013.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Office of Grant Policy and Operations, Attention: Vielka Garibaldi, Acting Director, Office of Grants Policy and Operations, Room 9303; 1201 New York Avenue NW., Washington, DC, 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) *By fax to:* (202) 606–3475, Attention: Vielka Garibaldi, Director, Office of Grants Policy and Operations.

(4) Electronically through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Vielka Garibaldi, (202) 606–6886, or by email at *vgaribaldi@cns.gov.*

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected 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 submissions of responses).

Background:

CNCS provides grants on a competitive basis to support organizations that use service as a strategy for addressing national and community needs. As part of the grant applications review process, CNCS uses external reviewers to assess the quality of grant proposals submitted to CNCS. The peer reviewer application is used by individuals that wish to serve as peer reviewers or peer review panel coordinators for CNCS' grant reviews. The information collected will be used by CNCS to select review participants for each grant competition. The information is collected electronically using eGrants, CNCS' web-based grant management system.

Current Action:

CNCS seeks to renew the current information collection. Minor revisions are proposed to clarify eGrants instructions and reflect adjustments to the Corporation for National and Community Service eGrants system. The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on September 30, 2013.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Corporation for National and Community Service.

OMB Number: 3045–0090.

Agency Number: None.

Affected Public: Individuals who are interested in serving as peer reviewers and peer review panel coordinators for CNCS.

Total Respondents: 2,000.

Frequency: One time to complete.

Average Time per Response: Averages 40 minutes.

Estimated Total Burden Hours: 1,333 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 23, 2013.

Vielka Garibaldi,

Director, Office of Grants Policy and Operations.

[FR Doc. 2013–12764 Filed 5–29–13; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Threat Reduction Advisory Committee; Notice of Federal Advisory Committee Meeting; Notice of Cancellation

AGENCY: Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), Department of Defense.

ACTION: Federal Advisory Committee Meeting Notice; Notice of cancellation.

SUMMARY: On Monday, May 20, 2013 (78 FR 29334–29335), the Department of Defense published a notice announcing a June 12–13, 2013 meeting of the Threat Reduction Advisory Committee. This notice announces that the Department of Defense Threat Reduction Advisory Committee meeting scheduled for June 12–13, 2013 is hereby cancelled.

DATES: The meeting of the Threat Reduction Advisory Committee that was to be on Wednesday, June 12, from 9:00 a.m. to 5:00 p.m. and Thursday, June 13, 2013, from 8:45 a.m. to 2:00 p.m. is hereby cancelled.

FOR FURTHER INFORMATION CONTACT: Mr. William Hostyn, Committee's Designated Federal Officer, DoD, Defense Threat Reduction Agency/J2/5/8R–ACP, 8725 John J. Kingman Road, MS 6201, Fort Belvoir, VA 22060–6201. Email: *william.hostyn@dtra.mil*. Phone: (703) 767–4453. Fax: (703) 767–4206.

Dated: May 24, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–12852 Filed 5–29–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Second Record of Decision for the Barry M. Goldwater Range East Range Enhancements Final Environmental Impact Statement

ACTION: Notice of Availability (NOA) of a Second Record of Decision (ROD).

SUMMARY: On May 15, 2013, the United States Air Force signed the Second ROD for the Barry M. Goldwater Range East Range Enhancements Final Environmental Impact Statement. This ROD states the Air Force decision to implement three of the remaining four proposals analyzed in the Environmental Impact Statement. These three proposals include: Proposal 2, Establishing timely reviews and approval procedures to address reconfiguration of existing air-to-ground target complexes on tactical ranges; Proposal 5, lowering the regular flight altitude floor over a portion of the Cabeza Prieta National Wildlife Refuge; and Proposal 7, allowing additional training in combat search and rescue and similar ground-based and combined air-ground operations. While no decision has been made for the final proposal at this time, the Air Force anticipates issuing an additional ROD at a future date once consultations are complete for this proposal.

The decision was based on matters discussed in the Final Environmental Impact Statement (EIS), inputs from the public and regulatory agencies, and other relevant factors. The Final EIS was made available to the public on November, 26, 2010 through a NOA in the **Federal Register** (Volume 75, Number 227, Page 72824) with a wait period that ended on December 27, 2010. On May 20, 2011 the Air Force signed the first ROD for six proposals that were analyzed in the Final EIS. This ROD documents only the decision of the Air Force with respect to the proposed Air Force actions analyzed in the Final EIS. Authority: This NOA is published pursuant to the regulations (40 CFR Part 1506.6) implementing the provisions of the NEPA of 1969 (42 U.S.C. 4321, *et seq.*) and the Air Force's Environmental Impact Analysis Process (EIAP) (32 CFR Parts 989.21(b) and 989.24(b)(7)).

FOR FURTHER INFORMATION CONTACT: Lisa McCarrick, 56 RMO/ESMP 7101 Jerstad Ln Bldg 500, Luke AFB, AZ 85309, 623–856–9475.

Henry Williams Jr,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2013–12840 Filed 5–29–13; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Partially Exclusive Patent License; Lumedyne Technologies, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Lumedyne Technologies, Inc., a revocable, nonassignable, partially exclusive license in the United States to practice the Government-Owned inventions described in Navy Case No. 100910: Harvesting Rotational Energy Using Linear-Based Energy Harvesters//Navy Case No. 101501: Reconfigurable Actively Switched Flying Capacitor Array//Navy Case No. 101592: Method for Analytical Reconstruction of Digital Signals Via Stitched Polynomial Fitting//Navy Case No. 101761: Apparatus and Methods for Time Domain Measurements of Oscillation Perturbations Using Phase Shifted Virtual Intervals//Navy Case No. 101804: Light Field Imaging Assisted Inertial Mapping and Navigation//Navy Case No. 101875: Inertial Sensors Using Sliding Plane Proximity Switches.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than June 14, 2013.

ADDRESSES: Written objections are to be filed with the Office of Research and Technology Applications, Space and Naval Warfare Systems Center Pacific, Code 72120, 53560 Hull St., Bldg. A33 Room 2531, San Diego, CA 92152–5001.

FOR FURTHER INFORMATION CONTACT: Brian Suh, Office of Research and Technology Applications, Space and Naval Warfare Systems Center Pacific, Code 72120, 53560 Hull St., Bldg. A33 Room 2531, San Diego, CA 92152–5001, telephone 619–553–5118, E-Mail: *brian.suh@navy.mil.*

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: May 22, 2013.

C.K. Chiappetta,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–12820 Filed 5–29–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Applications for New Awards, Investing in Innovation Fund, Scale-up and Validation Grants; Correction

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice; correction.

SUMMARY: On May 3, 2013, we published notices in the **Federal Register** inviting applications (NIAs) for the i3 Scale-up and Validation grants (78 FR 25977) and (78 FR 25990). The NIAs inadvertently omitted part of an evaluation requirement. This notice corrects the NIAs to include the omitted language, namely that the grantee must also ensure that the data from its evaluation are made available to third-party researchers consistent with applicable privacy requirements.

DATES: Effective May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Carol Lyons, U.S. Department of Education, 400 Maryland Avenue SW., room 4W203, Washington, DC 20202–5930. Telephone: (202) 453–7122. FAX: (202) 205–5631 or by email: i3@ed.gov.

If you use a 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:

Corrections

1. In the **Federal Register** of May 3, 2013, on page 25985, middle column, we are correcting the evaluation requirement to read:

''*Evaluation:* The grantee must conduct an independent evaluation (as defined in this notice) of its project. This evaluation must estimate the impact of the i3-supported practice (as implemented at the proposed level of scale) on a relevant outcome (as defined in this notice). The grantee must make broadly available digitally and free of charge, through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, the results of any evaluations it conducts of its funded activities. For Scale-up and Validation grants, the grantee must also ensure that the data from its evaluation are made available to third-party researchers consistent with applicable privacy requirements.

In addition, the grantee and its independent evaluator must agree to cooperate with any technical assistance provided by the Department or its contractor and comply with the requirements of any evaluation of the program conducted by the Department. This includes providing to the Department, within 100 days of a grant award, an updated comprehensive evaluation plan in a format and using such tools as the Department may require. Grantees must update this evaluation plan at least annually to reflect any changes to the evaluation. All of these updates must be consistent with the scope and objectives of the approved application. (2013 i3 NFP)''

2. In the **Federal Register** of May 3, 2013, beginning on page 25998, last column, and continuing on page 25999, first column, we are correcting the evaluation requirement to read:

''*Evaluation:* The grantee must conduct an independent evaluation (as defined in this notice) of its project. This evaluation must estimate the impact of the i3-supported practice (as implemented at the proposed level of scale) on a relevant outcome (as defined in this notice). The grantee must make broadly available digitally and free of charge, through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, the results of any evaluations it conducts of its funded activities. For Scale-up and Validation grants, the grantee must also ensure that the data from its evaluation are made available to third-party researchers consistent with applicable privacy requirements.

In addition, the grantee and its independent evaluator must agree to cooperate with any technical assistance provided by the Department or its contractor and comply with the requirements of any evaluation of the program conducted by the Department. This includes providing to the Department, within 100 days of a grant award, an updated comprehensive evaluation plan in a format and using such tools as the Department may require. Grantees must update this evaluation plan at least annually to reflect any changes to the evaluation. All of these updates must be consistent with the scope and objectives of the approved application. (2013 i3 NFP)''

Program Authority: American Recovery and Reinvestment Act of 2009, Division A, Section 14007, Pub. L. 111–5.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact persons 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 24, 2013.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2013–12858 Filed 5–29–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Enhanced Assessment Instruments Grants Program—Enhanced Assessment Instruments—Kindergarten Entry Assessment Competition

Correction

In notice document 2013–12212 appearing on pages 31359–31365 in the issue of May 23, 2013, make the following correction:

On page 31359, in the first column, the Subject in the heading is corrected to read as set forth above.

[FR Doc. C1–2013–12212 Filed 5–29–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–281–004; ER13–821–001; ER10–2959–003; ER10–

2934–002; ER10–2961–002; ER10–2950–002; ER10–3099–005; ER10–3077–001; ER10–3075–001; ER10–3076–001; ER10–3074–001; ER10–3071–001; ER11–4266–005; ER10–3257–001.

Applicants: CalPeak Power—Border LLC, CalPeak Power—Enterprise LLC, CalPeak Power—Panoche LLC, CalPeak Power—Vaca Dixon LLC, CalPeak Power LLC, Chambers Cogeneration, Limited Partnership, Edgecombe Genco, LLC, EIF Hudson, LLC, Logan Generating Co L.P., RC Cape May Holdings, LLC, Richland-Stryker Generation LLC, Scrubgrass Generating Company, L.P., Spruance Genco, LLC, Starwood Energy Hudson Investors, L.P., Starwood Power-Midway, LLC, Northampton Generating Company, L.P., Edgecombe Genco, LLC.

Description: Notice of non-material change status of EIF and Starwood MBR Entities.

Filed Date: 5/20/13.

Accession Number: 20130520–5200.

Comments Due: 5 p.m. ET 6/10/13.

Docket Numbers: ER13–186–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 05–20–13 ITC Att FF BRP Compliance v2 to be effective 6/1/2013.

Filed Date: 5/20/13.

Accession Number: 20130520–5111.

Comments Due: 5 p.m. ET 6/19/13.

Docket Numbers: ER13–780–003.

Applicants: New York Independent System Operator, Inc.

Description: Compliance re: interface pricing and revised NAESB standards to be effective 5/6/2013.

Filed Date: 5/20/13.

Accession Number: 20130520–5046.

Comments Due: 5 p.m. ET 6/10/13.

Docket Numbers: ER13–1401–000; ER13–1406–000; ER13–1407–000.

Applicants: Westbrook Energy Center, LLC.

Description: Supplement to May 1, 2013 and May 2, 2013 Applications for Market-Based Rate Authorization of Westbrook Energy Center, LLC, Osprey Energy Center, LLC and CFCC Sutter Energy, LLC.

Filed Date: 5/17/13.

Accession Number: 20130517–5171.

Comments Due: 5 p.m. ET 6/7/13.

Docket Numbers: ER13–1526–000.

Applicants: Massachusetts Electric Company.

Description: Interconnection Agreement Between Mass. Electric Co. and Ice House Partners Inc. to be effective 7/20/2013.

Filed Date: 5/20/13.

Accession Number: 20130520–5155.

Comments Due: 5 p.m. ET 6/10/13.

Docket Numbers: ER13–1527–000.

Applicants: Southern California Edison Company.

Description: Mojave Solar Letter Agreement Satsuma Solar Project to be effective 5/14/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5001.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1528–000.

Applicants: Southern California Edison Company.

Description: Revised Added Facilities Rate Interconnection Agmts under Trans Owner Tariff to be effective 1/1/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5002.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1529–000.

Applicants: Southern California Edison Company.

Description: Notice of Cancellation to Mojave Solar 4 Project Letter Agreement to be effective 3/13/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5003.

Comments Due: 5 p.m. ET 6/11/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–25–000.

Applicants: Northern Indiana Public Service Company.

Description: Application for Authorization to Issue Short-Term Debt of Northern Indiana Public Service Company.

Filed Date: 5/20/13.

Accession Number: 20130520–5165.

Comments Due: 5 p.m. ET 6/10/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–12805 Filed 5–29–13; 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: RP08–306–000.

Applicants: Portland Natural Gas Transmission System.

Description: Portland Natural Gas Transmission System submits Refund Report in compliance with Ordering Paragraph (C) of Opinion No. 510–A.

Filed Date: 5/20/13.

Accession Number: 20130520–5166.

Comments Due: 5 p.m. ET 6/3/13.

Docket Numbers: RP13–922–000.

Applicants: Equitrans, L.P.

Description: Compliance Filing—Sunrise Retainage to be effective 7/1/2013.

Filed Date: 5/20/13.

Accession Number: 20130520–5024.

Comments Due: 5 p.m. ET 6/3/13.

Docket Numbers: RP13–923–000.

Applicants: Rockies Express Pipeline LLC.

Description: Neg Rate NC 2013–05–20 BP Energy to be effective 5/18/2013.

Filed Date: 5/20/13.

Accession Number: 20130520–5109.

Comments Due: 5 p.m. ET 6/3/13.

Docket Numbers: RP13–924–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Consolidation of Firm Service Agmts filing to be effective 6/21/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5020.

Comments Due: 5 p.m. ET 6/3/13.

Docket Numbers: RP13–925–000.

Applicants: Questar Southern Trails Pipeline Company.

Description: Annual Fuel Gas Reimbursement Report of Questar Southern Trails Pipeline Company for 2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5124.

Comments Due: 5 p.m. ET 6/3/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–455–003.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Compliance with RP12–455 Reservation Charge Credit to be effective 12/31/9998.

Filed Date: 5/20/13.

Accession Number: 20130520–5093.

Comments Due: 5 p.m. ET 6/3/13.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 22, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–12807 Filed 5–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER09–548–002; EC11–108–001.

Applicants: ITC Great Plains, LLC.

Description: ITC Great Plains, LLC submits compliance filing to Begin Amortization of Regulatory Assets.

Filed Date: 5/20/13.

Accession Number: 20130520–5202.

Comments Due: 5 p.m. ET 6/10/13.

Docket Numbers: ER12–778–001.

Applicants: Puget Sound Energy, Inc.

Description: Compliance Filing—Rate Case to be effective 4/1/2012.

Filed Date: 5/21/13.

Accession Number: 20130521–5071.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–85–002.

Applicants: Maine Public Service Company.

Description: Filing of an Order No. 1000 Compliance Filing to be effective 12/11/2012.

Filed Date: 5/21/13.

Accession Number: 20130521–5058.

Comments Due: 5 p.m. ET 6/20/13.

Docket Numbers: ER13–1062–001.

Applicants: Copper Mountain Solar 1, LLC.

Description: Copper Mountain Solar 1, LLC Compliance Filing to be effective 4/25/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5054.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1530–000.

Applicants: Woodway Energy Partners, LLC.

Description: Notice of Cancellation to be effective 5/22/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5022.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1531–000.

Applicants: Southwestern Public Service Company.

Description: 2013–5–21_SPS–RBEC–GSEC–Cartrite–IA–661–0.0.0 to be effective 5/22/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5038.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1532–000.

Applicants: Southwestern Public Service Company.

Description: 2013–5–21_SPS–RBEC–GSEC–McBryde–IA–660–0.0.0 to be effective 5/22/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5052.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1533–000.

Applicants: Southwest Power Pool, Inc.

Description: 2548 KMEA and Westar Energy Meter Agent Agreement to be effective 5/1/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5055.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1534–000.

Applicants: Arizona Public Service Company.

Description: Cancellation of Four Corners related Agreements, part of Rate Schedule No. 211 to be effective 7/1/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5127.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1535–000.

Applicants: San Diego Gas & Electric Company.

Description: SDG&E Black Start Amendment to be effective 7/1/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5130.

Comments Due: 5 p.m. ET 6/11/13.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF13–444–000.

Applicants: The Procter & Gamble Paper Products Company.

Description: Form 556 of The Procter & Gamble Paper Products Company.

Filed Date: 5/21/13.

Accession Number: 20130521–5049.

Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–12804 Filed 5–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3168–006; ER13–821–002.

Applicants: ArcLight Energy Marketing, LLC, Scrubgrass Generating Company, L.P.

Description: Notice of Non-Material Change in Status of ArcLight Energy Marketing, LLC, et. al.

Filed Date: 5/22/13.

Accession Number: 20130522–5067.

Comments Due: 5 p.m. ET 6/12/13.

Docket Numbers: ER13–62–001.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits Request for Partial Waiver and Extension of Time to Submit Compliance Filing.

Filed Date: 5/20/13.

Accession Number: 20130520–5203.

Comments Due: 5 p.m. ET 6/10/13.

Docket Numbers: ER13–83–002.

Applicants: Duke Energy Progress, Inc., Duke Energy Carolinas, LLC.

Description: OATT Order No. 1000 Second Compliance Filing—Carolinas to be effective 12/31/9998.

Filed Date: 5/22/13.

Accession Number: 20130522–5023.

Comments Due: 5 p.m. ET 6/21/13.

Docket Numbers: ER13–738–001; ER11–2954–004; ER10–1277–004; ER10–1186–004; ER11–3097–005; ER10–1211–004; ER10–1212–004; ER10–1188–004; ER11–4626–003; ER10–1329–005; ER10–1187–003.

Applicants: DTE Electric Company, DTE Calvert City, LLC, DTE East China, LLC, DTE Energy Supply, Inc., DTE Energy Trading, Inc., DTE Pontiac North LLC, DTE River Rouge No. 1, LLC, DTE Stoneman, LLC, Mt. Poso Cogeneration Company, LLC, St. Paul Cogeneration, LLC, Woodland Biomass Power Ltd.

Description: Notice of Change in Status of DTE Electric Company, et al.

Filed Date: 5/22/13.

Accession Number: 20130522–5066.

Comments Due: 5 p.m. ET 6/12/13.

Docket Numbers: ER13–1422–001.

Applicants: Ebensburg Power Company.

Description: Inquiry Response to be effective 5/12/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5167.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1536–000.

Applicants: Exelon Generation Company, LLC.

Description: Tariff Record Compliance Filing to be effective 5/22/2013.

Filed Date: 5/21/13.

Accession Number: 20130521–5148.

Comments Due: 5 p.m. ET 6/11/13.

Docket Numbers: ER13–1537–000.

Applicants: Public Service Company of Colorado.

Description: 2013–5–22_332–PSCo–TSGT 110 Agrmt 0.0.0 to be effective 3/1/2013.

Filed Date: 5/22/13.

Accession Number: 20130522–5026.

Comments Due: 5 p.m. ET 6/12/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 22, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–12806 Filed 5–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–66–000]

New England Power Generators Association v. ISO New England Inc.; Notice of Complaint

Take notice that on May 17, 2013, pursuant to section 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 and section 206 of the Federal Power Act (FPA), 16 U.S.C. 824(e), the New England Power Generators Association (Complainant) filed a formal complaint against ISO New England Inc. (Respondent) alleging that certain newly imposed obligations articulated in a November 5, 2012 memorandum issued by the Respondent violate FPA section 205 and are therefore unenforceable.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 6, 2013.

Dated: May 21, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–12783 Filed 5–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 516–476]

South Carolina Electric and Gas Company; Notice Denying Motion to Intervene and Rejecting Request for Rehearing

On April 22, 2013, Commission staff issued an order approving South Carolina Electric and Gas Company's request to convey approximately 0.172 acres of land of the Saluda Hydroelectric Project No. 516, located on the Saluda and Congaree Rivers in Lexington, Newberry, Richland, and Saluda Counties, South Carolina.[1] On May 7, 2013, Pat Kelleher filed a motion to intervene and a request for rehearing of Commission staff's order.

Rule 214(b)(2) of the Commission's Rules of Practice and Procedures states in relevant part that a motion to intervene must show in sufficient detail that the movant's participation is in the public interest.[2] In his request for rehearing, Mr. Kelleher states that his intervention ''is in the public interest because it improves public access to public recreation at the . . . .''[3] Mr. Kelleher, a resident of Washington State, failed to identify any interest whatsoever in this specific proceeding.[4]

[1] *South Carolina Elec. and Gas Co.,* 143 FERC ¶ 62,041 (2013).

[2] 18 CFR 385.214(b)(2)(iii) (2012).

[3] Request for Rehearing at 1.

[4] He does not claim to own or recreate at property on or near the project site, to have ever visited the project, or have any future plans to do so.

Accordingly, his motion to intervene is denied.[5]

Under section 313(a) of the Federal Power Act, 16 U.S.C. 825*l* (2006), a request for rehearing may be filed only by a party to the proceeding. Pat Kelleher is not a party to this proceeding. Therefore, his request for rehearing is rejected.

This notice constitutes final agency action. Requests for rehearing by the Commission of this notice must be filed within 30 days of the date of issuance of this notice pursuant to section 313(a) of the FPA, 16 U.S.C. 825*l* (2006), and section 385.713 of the Commission's regulations, 18 CFR 385.713 (2012).

Dated: May 21, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–12785 Filed 5–29–13; 8:45 am]

BILLING CODE 6717–01–P

[5] *See Alabama Power Co.,* 141 FERC ¶ 61,039 (2012); *Union Electric Co.,* 140 FERC ¶ 61,210 (2012); *Alabama Power Co.,* 140 FERC ¶ 61,037 (2012); *PPL Holtwood, LLC,* 140 FERC ¶ 61,038 (2012).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–64–000]

Exelon Generation Company, LLC; CER Generation II, LLC; Constellation Mystic Power, LLC; Constellation NewEnergy, Inc.; Constellation Power Source Generation, Inc.; Criterion Power Partners, LLC; Notice of Petition for Declaratory Order

Take notice that on May 16, 2013, pursuant to section 305(a) of the Federal Power Act (FPA), 16 USC 825d(a) and Rule 207of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, Exelon Generation Company, LLC, CER Generation II, LLC, Constellation Mystic Power, LLC, Constellation NewEnergy, Inc., Constellation Power Source Generation, Inc. and Criterion Power Partners, LLC (collectively, Petitioner) filed a petition for declaratory order requesting that the Commission declare that the payment of dividends, as more fully described in this petition, are not implicated by section 305(a) of the FPA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 17, 2013.

Dated: May 21, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–12786 Filed 5–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13630–001]

Lewis County Development Corporation; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On May 2, 2013, the Lewis County Development Corporation (Lewis County Corp), filed an application for a successive preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Croghan Dam Hydroelectric Project (project) to be located at the existing Croghan Dam, on the Beaver River, in Lewis County, New York. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) An existing concrete gravity dam structure consisting of an 11.5-foot-high by 120-foot-long section, and a 9.5-foot-high by 103-foot-long section; (2) an existing impoundment with a normal water surface elevation of 818 feet mean sea level extending 2.7 miles upstream; (3) a new 75-foot-long by 35-foot-wide powerhouse; (4) a new turbine generator unit with a total installed capacity of 500 kilowatts; (5) a new 13.2-kilovolt transmission line interconnecting with the National Grid; and (6) appurtenant facilities. The proposed project would operate in run-of-river mode and generate an estimated average annual generation of 1,387 megawatt-hours.

Applicant Contact: Larry Dolhof, Lewis County Development Corporation, P.O. Box 308, Lyons Falls, NY 13368, (315) 348–4066.

FERC Contact: Timothy Looney, (202) 502–6096.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and five copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/*

elibrary.asp. Enter the docket number (P–13630) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 22, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–12787 Filed 5–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the Southern Company Services, Inc.:

Southeastern Regional Transmission Planning (SERTP) Process Interim Stakeholder Meeting on Order No. 1000

May 28, 2013, 10:00 a.m.–3:00 p.m., Local Time

The above-referenced meeting will be via Web conference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *www.southeasternrtp.com.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER13–908, *Alabama Power Company et al.*
Docket No. ER13–913, *Ohio Valley Electric Corporation*
Docket No. ER13–897, *Louisville Gas and Electric Company and Kentucky Utilities Company*
Docket No. ER13–1221, *Mississippi Power Company*
Docket No. EL05–121, *PJM Interconnection, L.L.C.*
Docket No. EL10–52, *Central Transmission, L.L.C.* v. *PJM Interconnection, L.L.C.*
Docket No. ER09–1256, *Potomac-Appalachian Transmission Highline, L.L.C.*
Docket Nos. ER10–253 and EL10–14, *Primary Power, L.L.C.*
Docket Nos. ER11–2814 and ER11–2815, *PJM Interconnection, L.L.C. and American Transmission Systems, Inc.*
Docket No. EL12–69, *Primary Power LLC v. PJM Interconnection, L.L.C.*
Docket No. ER12–91, *PJM Interconnection, L.L.C.*
Docket No. ER12–92, *PJM Interconnection, L.L.C., et al.*
Docket No. ER12–1178, *PJM Interconnection, L.L.C.*
Docket No. ER12–2399, *PJM Interconnection, L.L.C.*
Docket No. ER12–2708, *PJM Interconnection, L.L.C.*
Docket No. ER13–90, *Public Service Electric and Gas Company and PJM Interconnection, L.L.C.*
Docket No. ER13–195, *Indicated PJM Transmission Owners*
Docket No. ER13–198, *PJM Interconnection, L.L.C.*
Docket No. ER13–1033, *Linden VFT, LLC and PJM Interconnection, L.L.C.*
Docket Nos. ER13–1177, 1178 and 1179, *PJM Interconnection, L.L.C. and Eastern Kentucky Power Cooperative, Inc.*
Docket No. ER13–186, *Midwest Independent Transmission System Operator, Inc. and the MISO Transmission Owners*
Docket No. ER13–187, *Midwest Independent Transmission System Operator, Inc. and the MISO Transmission Owners*
Docket No. ER13–89, *MidAmerican Energy Company and Midwest Independent Transmission System Operator, Inc.*
Docket No. ER13–101, *American Transmission Company LLC and the Midwest Independent Transmission System Operator, Inc.*
Docket No. ER13–84, *Cleco Power LLC*
Docket No. ER13–95, *Entergy Arkansas, Inc.*
Docket No. ER13–80, *Tampa Electric Company*
Docket No. ER13–86, *Florida Power Corporation*
Docket No. ER13–104, *Florida Power & Light Company*
Docket No. NJ13–2, *Orlando Utilities Commission*
Docket Nos. ER13–366 and ER13–367, *Southwest Power Pool, Inc.*
Docket No. ER13–83, *Duke Energy Carolinas LLC and Carolina Power & Light Company*
Docket No. ER13–88, *Alcoa Power Generating, Inc.*
Docket No. ER13–107, *South Carolina Electric & Gas Company*

For more information, contact Valerie Martin, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6139 or *Valerie.Martin@ferc.gov.*

Dated: May 22, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–12784 Filed 5–29–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9818–3]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Arkansas' request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

DATES: EPA's approval is effective May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Evi Huffer, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1697, *huffer.evi@epa.gov,* or Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On August 22, 2012, the Arkansas Department of Environmental Quality (ADEQ) submitted an application titled ''State and Local Emissions Inventory System'' for revisions/modifications of its EPA-authorized programs under title 40 CFR. EPA reviewed ADEQ's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application

met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Arkansas' request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR parts 51 and 70, is being published in the **Federal Register**:

Part 52—Requirements for Preparation, Adoption, and Submittal of Implementation Plans; and

Part 70—State Operating Permit Programs.

ADEQ was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Dated: May 17, 2013.

Andrew Battin,

Director, Office of Information Collection.

[FR Doc. 2013–12747 Filed 5–29–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before July 29, 2013.

ADDRESSES: You may submit comments, identified by *FR 4010, FR 4011, FR 4012, FR 4017, FR 4019, or FR 4023* by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal to approve under OMB delegated authority the extension for three years, with revision, the following information collection:

Report title: Information Collections Related to the Gramm-Leach-Bliley (GLB) Act.

Agency form number: FR 4010, FR 4011, FR 4012, FR 4017, FR 4019, and FR 4023.

OMB control number: 7100–0292.

Frequency: On occasion.

Reporters: Bank Holding Companies (BHCs), foreign banking organizations (FBOs), state member banks (SMBs), and Savings and Loan Holding Companies (SLHCs).

Annual reporting hours: 1,884 hours.

Estimated average hours per response: FR 4010: BHC and SLHCs 3 hours, FBOs 3.5 hours; FR 4011: 10 hours; FR 4012: BHCs decertified as financial holding companies (FHCs) 1 hour, SLHCs decertified as a FHC 1 hour, FHCs back into compliance—BHC 10 hours; FHCs back into compliance—SLHC 10 hours, FR 4017: 4 hours; FR 4019: Regulatory relief requests 1 hour, Portfolio company notification 1 hour; and FR 4023: 50 hours.

Number of respondents: FR 4010: BHC and SLHCs 29, FBOs 5; FR 4011: 5; FR 4012: BHCs decertified as FHCs 8, SLHCs decertified as a FHC 2, FHCs back into compliance—BHC 17; FHCs back into compliance—SLHC 3, FR 4017: 3; FR 4019: Regulatory relief

requests 5, Portfolio company notification 2; FR 4023: 30.

General description of report: The FR 4010 is required to obtain a benefit and is authorized under Section 4(l)(1)(C) of the BHC Act, 12 U.S.C. 1843(l)(l)(C); section 10(c)(2)(H) of the Home Owner's Loan Act 12 U.S.C. 1467a(c)(2)(H); section 8(a) of the International Banking Act, 12 U.S.C. 3106(a); sections 225.82 and 225.91 of Regulation Y, 12 CFR 225.82 and 225.91; and section 238.65 of Regulation LL, 12 CFR 238.65.

The FR 4011 is voluntary and is authorized under Sections 4(j) and 4(k) of the BHC Act, 12 U.S.C. 1843(j) through (k); and sections 225.88, and 225.89, of Regulation Y, 12 CFR 225.88, and 225.89.

The FR 4012 is mandatory and is authorized under Section 4(l)(1) and 4(m) of the BHC Act, 12 U.S.C. 1843(l)(1) and (m); section 10(c)(2)(H) of the Home Owner's Loan Act 12 U.S.C. 1467a(c)(2)(H); section 8(a) of the International Banking Act, 12 U.S.C. 3106(a); and sections 225.83 and 225.93 of Regulation Y, 12 CFR 225.83 and 225.93; and section 238.66(b) of Regulation LL 12 CFR 238.66(b).

The FR 4017 is required to obtain a benefit and is authorized under Section 9 of the Federal Reserve Act, 12 U.S.C. 335; and section 208.76 of Regulation H, 12 CFR 208.76.

The FR 4019 is required to obtain a benefit and is authorized under Section 4(k)(7) of the BHC Act, 12 U.S.C. 1843(k)(7); and sections 225.171(e)(3), 225.172(b)(4), and 225.173(c)(2) of Regulation Y, 12 CFR 225.171(e)(3), 225.172(b)(4), and 225.173(c)(2).

The FR 4023 is mandatory and is authorized under Section 4(k)(7) of the BHC Act, 12 U.S.C. 1843(k)(7); and sections 225.171(e)(4) and 225.175 of Regulation Y, 12 CFR 225.171(e)(4) and 225.175.

For the FR 4010, FR 4011, FR 4017, FR 4019, and information related to a failure to meet capital requirements on the FR 4012, a company may request confidential treatment of the information contained in these information collections pursuant to section (b)(4) and (b)(6) of the Freedom of Information Act (FOIA)(5 U.S.C. 552 (b)(4) and (b)(6)). Information related to a failure to meet management requirements on the FR 4012 is confidential and exempt from disclosure under section (b)(4), because the release of this information would cause substantial harm to the competitive position of the entity, and (b)(8) if the information is related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions. Since the Federal Reserve does not collect the FR 4023, no issue of confidentiality under the FOIA arises. FOIA will only be implicated if the Board's examiners retained a copy of the records in their examination or supervision of the institution, and would likely be exempt from disclosure pursuant to FOIA (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)).

Abstract: President Clinton signed the GLB Act into law on November 12, 1999. Final regulations implementing the GLB Act and mandating the subject information collections took effect in 2001. These data collections include:

Declarations to Become a Financial Holding Company (FR 4010). The BHC Act requires entities to file this declaration in order to be treated as FHCs.[1] The information contained in a FHC declaration is used by the Federal Reserve to ascertain whether the filer is eligible to become a FHC.

Requests for Determinations and Interpretations Regarding Activities Financial in Nature (FR 4011). The GLB Act authorizes the Federal Reserve, upon request or on its own initiative, to determine in conjunction with the Treasury Department that nonbanking activities are financial in nature, incidental to a financial activity, or complementary to a financial activity.[2] In addition, Regulation Y permits interested parties to request the Federal Reserve to issue advisory opinions that specific proposed activities fall within the scope of (or are incidental to) financial activities.[3] To gather facts necessary to make determinations or issue opinions, the Federal Reserve must collect information from parties making such requests.

Notices of Failure to Meet Capital or Management Requirements (FR 4012). The BHC Act provides that a company is eligible for FHC status only if it and all of its subsidiary depository institutions (and in the case of a FBO, the foreign bank itself, and its U.S. branches, agencies, and commercial lending companies) are well managed and well capitalized. Regulations Y and LL require a FHC that falls out of compliance with these requirements to notify the Federal Reserve of the noncompliance.[4] Notice of noncompliance triggers restrictions on the FHC's ability to engage in additional nonbanking activities and commences a 45-day period for the FHC to submit plans to the Federal Reserve for curing the deficiencies and to execute a formal cure agreement with the Federal Reserve.[5]

Notices by State Member Banks to Invest in Financial Subsidiaries (FR 4017). The Federal Reserve Act and Regulation H require state member banks to obtain approval from the Federal Reserve prior to establishing, acquiring control of, or acquiring an interest in a financial subsidiary, and prior to engaging in additional financial activities through an existing financial subsidiary.[6] The information contained in the notice is used by the Federal Reserve to ascertain whether the filer is eligible to establish a financial subsidiary.

Regulatory Relief Requests Associated with Merchant Banking Activities (FR 4019). Regulation Y generally limits holding periods for merchant banking investments to 10 years (15 years in the case of investments in or through private equity funds), but permits a FHC to request holding period extensions on a case-by-case basis.[7] Information contained in the request is used to determine whether the request should be granted. The BHC Act also bars FHCs from routinely managing or operating portfolio companies held as merchant banking investments, except as necessary or required to obtain a reasonable return on investment. To help monitor compliance with this limitation, Regulation Y requires a FHC to notify the Federal Reserve if the FHC's routine management or operation of a portfolio company lasts longer than nine months.[8] Information in the notice enables the Federal Reserve to monitor compliance with requirements for engaging in merchant banking activities.

Recordkeeping Requirements Associated with Merchant Banking Activities (FR 4023). Regulation Y requires companies engaging in merchant banking activities to establish and maintain policies, procedures, records, and systems for managing the activities and the risk associated with them and to make these materials available upon request to the Federal Reserve.[9] Regulation Y also requires

[1] 12 U.S.C. 1843(*l*)(1)(C). Section 10(c)(2)(H) of the Home Owner's Loan Act, 12 U.S.C. 1467a(c)(2)(H), and Section 8(a) of the International Banking Act, 12 U.S.C. 3106(a), respectively, make this requirement applicable to SLHCs and Foreign Banking Organizations (FBOs) seeking to be treated as FHCs.

[2] 12 U.S.C. 1843(k)(1).

[3] 12 CFR 225.88(e).

[4] 12 U.S.C. 1843(*l*)(1); 12 CFR 225.83(b)(1), 225.93(b)(1), and 238.66(b).

[5] 12 U.S.C. 1843(m)(2) and 1467a(c)(2)(H)(ii), 12 CFR 225.83(d) and 225.93(d).

[6] 12 U.S.C. 335 (applying the prior approval requirements of 12 U.S.C. 24a(a)(2)(F)); 12 CFR 208.76(a).

[7] 12 CFR 225.172(b), 225.173(c); 12 CFR 225.172(b)(4), and 225.173(c)(2).

[8] 12 CFR 225.171, 225.171(e)(3).

[9] 12 CFR 225.175.

FHCs to document any routine management or operation of a portfolio company and to make this documentation available to the Federal Reserve on request.[10] Examiners use this information to assess whether the FHC is conducting its merchant banking activities in a safe and sound manner and whether the FHC is in compliance with applicable regulatory requirements for engaging in merchant banking activities.

There are no formal reporting forms for these collections of information, which are event generated, though in each case the type of information required to be filed is described in the Board's regulations. These collections of information are required pursuant to amendments made by the GLB Act to the BHC Act or the Federal Reserve Act, or Board regulations issued to carry out the GLB Act.

Current Actions: The Federal Reserve proposes to revise FR 4012 to include SLHCs, consistent with interim final Regulation LL (CFR 238.66(b)).[11]

Board of Governors of the Federal Reserve System, May 23, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–12715 Filed 5–29–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–19129–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before July 1, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and document identifier HHS–OS–19129–30D for reference.

Information Collection Request Title: HIPAA Audit Review Survey.

Abstract: This information collection consists of an online survey of 115 covered entities (health plans, health care clearinghouses, and health care providers) that were audited in 2012 through the Office for Civil Rights HIPAA Audit Program. The survey will gather information on the effect of the audits on the audited entities and the entities' opinions about the audit process.

Need and Proposed Use of the Information: The Office for Civil Rights is currently conducting a review of the HIPAA Audit program to determine its efficacy in assessing the HIPAA compliance efforts of covered entities. As part of that review, the online survey will be used to:

- Measure the effect of the HIPAA Audit program on covered entities;
- Gauge their attitudes towards the audit overall and in regards to major audit program features, such as the document request, communications received, the on-site visit, the audit-report findings and recommendations;
- Obtain estimates of costs incurred by covered entities, in time and money, spent responding to audit-related requests;
- Seek feedback on the effect of the HIPAA Audit program on the day-to-day business operations; and
- Assess whether improvements in HIPAA compliance were achieved as a result of the Audit program.

The information, opinions, and comments collected using the online survey will be used to produce recommendations for improving the HIPAA Audit program.

Likely Respondents: The 115 audit points-of-contact for each covered entity audited as part of the 2012 HIPAA Compliance Audit Program.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Covered Entity Privacy and Security Officer(s).	OCR HIPAA Audit Evaluation Survey.	115	1	27	52
Total					52

[10] 12 CFR 225.171(e)(4).

[11] (76 FR 56508) September 13, 2011.

Darius Taylor,

Deputy, Information Collection Clearance Officer.

[FR Doc. 2013–12828 Filed 5–29–13; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Food and Drug Administration Safety and Innovation Act (FDASIA): Request for Comments on the Development of a Risk-Based Regulatory Framework and Strategy for Health Information Technology

AGENCY: Office of the National Coordinator for Health Information Technology, Department of Health and Human Services.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Food and Drug Administration (FDA), Office of the National Coordinator for Health Information Technology (ONC), and Federal Communication Commission (FCC) seek broad input from stakeholders and experts on the elements we should consider as we develop a report that contains a proposed strategy and recommendations on an appropriate, risk-based regulatory framework for health IT, including mobile medical applications, that promotes innovation, protects patient safety, and avoids regulatory duplication. To that end, we are requesting comments on the topics identified in Section III.

DATES: This Docket on *regulations.gov* will remain open for public comments until 11:59pm Eastern Time, August 31, 2013.

FOR FURTHER INFORMATION CONTACT: Steven Posnack, Director, Federal Policy Division, Office of Policy and Planning, Office of the National Coordinator for Health IT, 202–690–7151.

SUPPLEMENTARY INFORMATION:

I. The Food and Drug Administration Safety and Innovation Act Workgroup Under ONC's HIT Policy Committee

Section 618(a) of the Food and Drug Administration Safety and Innovation Act (FDASIA) of 2012 (Pub. L. 112–144) directs the Secretary of the Department of Health and Human Services (HHS), acting through the Commissioner of the Food and Drug Administration (FDA), and in consultation with the HHS Office of the National Coordinator for Health Information Technology (ONC) and the Chairman of the Federal Communications Commission (FCC), to publish a report that will offer a proposed strategy and recommendations for an appropriate risk-based Health IT regulatory framework that would include mobile medical applications and promotes innovation, protects patient safety, and avoids regulatory duplication.

To assist the agencies' efforts in developing this report, the FDA in collaboration with ONC and FCC formed a new workgroup, referred to as the FDASIA Workgroup, under ONC's HIT Policy Committee to help the HIT Policy Committee provide appropriate input and recommendations to FDA, ONC, and FCC as suggested by section 618(b) of FDASIA. Accordingly, the FDASIA Workgroup is charged with providing input on issues relevant to the report FDA, ONC, and FCC will develop, which include:

- Types of risk that may be posed by health IT that impact patient safety, the likelihood that these risks will be realized, and the impact of these considerations on a risk-based approach;
- Factors or approaches that could be included in a risk-based regulatory approach for health IT that also promote innovation and protect patient safety; and
- Approaches to avoid duplicative or overlapping regulatory requirements.

The workgroup's membership includes agency officials and representatives from a wide range of stakeholders, including patients, consumers, health care providers, startup companies, health plans and other third-party payers, venture capital investors, information technology vendors, health information technology vendors, small businesses, purchasers, and employers.

Through this request for comments, FDA, ONC, and FCC would like to provide an opportunity for broad public input on section 618 of FDASIA. Timely submitted written comments will inform the new FDASIA Workgroup's deliberations on the input it will provide to the HIT Policy Committee regarding the report required by section 618 of FDASIA. We seek input on a number of specific topics identified in Section III, but welcome any other pertinent information stakeholders wish to share. *For commenters that wish to have their comments considered by the FDASIA Workgroup, we encourage you to submit your comments as early as possible and preferably before June 30, 2013.*

FDASIA Workgroup In-Person Meeting

On May 30 and 31, 2013, in Washington, DC, the FDASIA Workgroup will hold an in-person meeting which will also be Webcast. Persons interested in attending the in-person meeting or viewing the Webcast can access information about doing so at this URL: *http://www.healthit.gov/policy-researchers-implementers/policy-fdasia-1.*

Interested parties may submit electronic comments to *http://www.regulations.gov*. Submit written comments to Office of the National Coordinator for Health Information Technology, Attention: FDASIA Report Hubert H. Humphrey Building, Suite 729D, 200 Independence Ave. SW., Washington, DC 20201.

II. Background

Health IT is being rapidly adopted by the health care industry and there is a growing need for the Federal government to develop a coordinated approach to its oversight of health IT that promotes innovation, protects patient safety, and avoids regulatory duplication. FDA, FCC, and ONC each have important roles with respect to the development and use of health IT that significantly impacts public health and welfare. Congress recognized the importance of a coordinated regulatory approach and through FDASIA, specifically tasked the FDA, ONC, and FCC with creating a report that includes a proposed strategy and recommendations for an appropriate, risk-based regulatory framework for health IT. To inform the report required by FDASIA, FDA, ONC, and FCC, in addition to receiving input from the HIT Policy Committee, intend to provide multiple opportunities, as appropriate, for input from other stakeholders at different stages throughout the report's development, including, if feasible, feedback on the draft framework prior to finalizing the report.

III. Topics for Discussion

Public comment is sought on any or all of the following topics below.

1. Taxonomy

a. What types of health IT should be addressed by the report developed by FDA, ONC, and FCC?

2. Risk and Innovation

a. What are the risks to patient safety posed by health IT and what is the likelihood of these risks?

b. What factors or approaches could be included in a risk-based regulatory approach for health IT to promote innovation and protect patient safety?

3. Regulation

a. Are there current areas of regulatory overlap among FDA, ONC, and/or FCC and if so, what are they? Please be specific if possible.

b. If there are areas of regulatory overlap, what, if any, actions should the agencies take to minimize this overlap? How can further duplication be avoided?

Dated: May 23, 2013.

Jodi Daniel,

Director, Office of Policy and Planning, Office of the National Coordinator for Health IT.

[FR Doc. 2013–12817 Filed 5–29–13; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the 2015 Dietary Guidelines Advisory Committee

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services (HHS), in collaboration with the U.S. Department of Agriculture (USDA), are hereby giving notice that a meeting of the 2015 Dietary Guidelines Advisory Committee (DGAC) will be held. This meeting will be open to the public.

DATES: The meeting will be held on June 13, 2013 from 8:30 a.m.–11:30 a.m. e.d.t. and June 14, 2013 from 8:30 a.m.–3:45 p.m. e.d.t.

ADDRESSES: The meeting will be accessible by webcast on the Internet or by attendance in-person. For in-person participants, on June 13, 2013, the meeting will take place in the National Institutes of Health (NIH) Masur Auditorium. On June 14, 2013, the meeting will be held in the NIH Foundation for Advanced Education in the Sciences (FAES) Academic Center. Both facilities are located at the NIH Clinical Center, Building 10, 10 Center Drive, 9000 Rockville Pike, Bethesda, MD 20892.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer (DFO), 2015 DGAC, Richard D. Olson, M.D., M.P.H.; Alternate DFO, 2015 DGAC, Kellie (O'Connell) Casavale, Ph.D., R.D., Nutrition Advisor; Office of Disease Prevention and Health Promotion, OASH/HHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852: Telephone: (240) 453–8280; Fax: (240) 453–8281; Lead USDA Co-Executive Secretary, Colette I. Rihane, M.S., R.D., Director, Nutrition Guidance and Analysis Division, Center for Nutrition Policy and Promotion, USDA; 3101 Park Center Drive, Room 1034; Alexandria, VA 22302; Telephone: (703) 305–7600; Fax: (703) 305–3300; and/or USDA Co-Executive Secretary, Shanthy A. Bowman, Ph.D., Nutritionist, Food Surveys Research Group, Beltsville Human Nutrition Research Center, Agricultural Research Service, USDA; 10300 Baltimore Avenue, BARC-West Bldg 005, Room 125; Beltsville, MD 20705–2350; Telephone: (301) 504–0619. Additional information about the 2015 DGAC is available on the Internet at *www.DietaryGuidelines.gov.*

SUPPLEMENTARY INFORMATION: Under Section 301 of Public Law 101–445 (7 U.S.C. 5341, the National Nutrition Monitoring and Related Research Act of 1990, Title III) the Secretaries of Health and Human Services (HHS) and Agriculture (USDA) are directed to issue at least every five years a report titled *Dietary Guidelines for Americans.* The law instructs that this publication shall contain nutritional and dietary information and guidelines for the general public, shall be based on the preponderance of scientific and medical knowledge current at the time of publication, and shall be promoted by each federal agency in carrying out any federal food, nutrition, or health program. The *Dietary Guidelines for Americans* was issued voluntarily by HHS and USDA in 1980, 1985, and 1990; the 1995 edition was the first statutorily mandated report, followed by subsequent editions at the appropriate intervals. To assist with satisfying the mandate, a discretionary federal advisory committee is established every five years to provide independent, science-based advice and recommendations. The DGAC consists of a panel of experts who are selected from the public/private sector. Individuals who are selected to serve on the Committee must have current scientific knowledge in the field of human nutrition and chronic disease.

Appointed Committee Members: As outlined (stipulated) in the charter, the 2015 DGAC will be composed of not more than 17 members, with the minimum number being 13. Individuals are appointed to serve on the Committee who are jointly agreed upon by the Secretaries of HHS and USDA. The Secretaries of HHS and USDA recently appointed 15 individuals to serve as members of the 2015 DGAC. Information on the DGAC membership will be available at *www.DietaryGuidelines.gov.*

Authority: The 2015 DGAC is authorized under 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended.

Committee's Task: The work of the DGAC will be solely advisory in nature and time-limited. The Committee will develop recommendations based on the preponderance of current scientific and medical knowledge using a systematic review approach. The DGAC will examine the current *Dietary Guidelines for Americans,* take into consideration new scientific evidence and current resource documents, and develop a report to the Secretaries of HHS and USDA that outlines its science-based recommendations and rationale which will serve as the basis for developing the eighth edition of the *Dietary Guidelines for Americans.* The Committee will hold approximately five public meetings to review and discuss recommendations. Meeting dates, times, locations, and other relevant information will be announced at least 15 days in advance of each meeting via **Federal Register** notice. As stipulated in the charter, the Committee will be terminated after delivery of its final report to the Secretaries of HHS and USDA or two years from the date the charter was filed, whichever comes first.

Purpose of the Meeting: In accordance with FACA and to promote transparency of the process, deliberations of the Committee will occur in a public forum. At this meeting, the Committee will be oriented to the *Dietary Guidelines* revision process and begin its deliberations.

Meeting Agenda: The meeting agenda will include (a) review of operations for the Committee members, (b) presentations on the history of the *Dietary Guidelines* and how they are used, (c) presentation on USDA's Nutrition Evidence Library, and (d) plans for future Committee work.

Meeting Registration: The meeting is open to the public. The meeting will be accessible by webcast or by attendance in-person. Pre-registration is required for both web viewing and in-person attendance. To pre-register, please go to *www.DietaryGuidelines.gov* and click on the link for ''Meeting Registration.'' To register by phone or to request a sign language interpreter or other special accommodations, please call for registration and logistics assistance through National Capitol Contracting, Laura Walters at (703) 243–9696 by 5:00 p.m. E.D.T., June 10, 2013. Pre-registration must include name, affiliation, phone number or email, days

attending, and if participating via webcast or in-person.

Webcast Public Participation: After pre-registration, individuals participating by webcast will receive webcast access information via email.

In-Person Public Participation and Building Access: For in-person participants, the meetings are within the National Institutes of Health (NIH) Clinical Center (Building 10) as noted above in the Addresses section. Details regarding registration capacity and directions will be posted on *www.DietaryGuidelines.gov.* For in-person participants, check-in at the registration desk onsite at the meeting is required and will begin at 7:30 a.m. each day.

Public Comments and Meeting Documents: Written comments from the public will be accepted throughout the Committee's deliberative process; opportunities to present oral comments to the Committee will be provided at a future meeting. Written public comments can be submitted and/or viewed at *www.DietaryGuidelines.gov* using the ''Submit Comments'' and ''Read Comments'' links, respectively. Written comments received by June 5, 2013 will ensure transmission to the Committee prior to this meeting. Documents pertaining to Committee deliberations, including meeting agendas, summaries, and transcripts will be available on *www.DietaryGuidelines.gov* under ''Meetings'' and meeting materials will be available for public viewing at the meeting. Meeting information, thereafter, will continue to be accessible online, at the NIH Library, and upon request at the Office of Disease Prevention and Health Promotion, OASH/HHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852: Telephone (240) 453–8280; Fax: (240) 453–8281.

Dated: May 24, 2013.

Richard Olson,

Designated Federal Officer, Director, Division of Prevention Science, Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services.

[FR Doc. 2013–12859 Filed 5–24–13; 4:15 pm]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Health Resources and Services Administration

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) announce the following meeting of the aforementioned committee:

Times and Dates: 8:00 a.m.–5:30 p.m., June 18, 2013; 8:00 a.m.–2:30 p.m., June 19, 2013.

Place: CDC Corporate Square, Building 8, Conference Room 1–ABC, 8 Corporate Boulevard, Atlanta, Georgia 30329, Telephone: (404) 639–8317.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people. This meeting is also accessible by teleconference. Toll-free +1 (866) 718–4584, Participant code: 8484551.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This Committee is charged with advising the Director, CDC and the Administrator, HRSA, regarding activities related to prevention and control of HIV/AIDS, Viral Hepatitis and other STDs, the support of health care services to persons living with HIV/AIDS, and education of health professionals and the public about HIV/AIDS, Viral Hepatitis and other STDs.

Matters To Be Discussed: Agenda items include: (1) STD clinical preventive services in primary care setting and integrating STD screening and treatment services in HIV care settings); (2) The test and cure era for hepatitis C: The public health response to rising hepatitis C mortality; The impact of new therapies on health outcomes; and Building care capacity to increase access to hepatitis C virus (HCV) therapy; (3) HIV Medical Monitoring Project: follow up on Institute of Medicine (IOM) report and other Affordable Care Act (ACA) issues; (4) Recommendations for new HIV diagnostic laboratory testing algorithms; and (5) CHAC Workgroups Update.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, Centers for Disease Control and Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, 1600 Clifton Road NE., Mailstop E–07, Atlanta, Georgia 30333, Telephone (404) 639–8317.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0577]

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection contained in the requirements for the submission of labeling for human prescription drugs and biologics in electronic format.

DATES: Submit either electronic or written comments on the collection of information by July 29, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–7726, *Ila.mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format—(OMB Control Number 0910–0530)—Extension

FDA is requesting that OMB extend approval under the Paperwork Reduction Act (44 USC 3501–3520) for the information collection resulting from the requirement that the content of labeling for prescription drug products be submitted to FDA electronically in a form that FDA can process, review, and archive. This requirement was set forth in the final rule entitled ''Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format'' (December 11, 2003; 68 FR 69009), which amended FDA regulations governing the format in which certain labeling is required to be submitted for FDA review with new drug applications (NDAs) (21 CFR 314.50(l)(1)(i)), including supplemental NDAs, abbreviated new drug applications (ANDAs) (21 CFR 314.94(d)(1)(ii)), including supplemental ANDAs, and annual reports (21 CFR 314.81(b)(2)(iii)(*b*)) (the final rule also applied to certain BLAs, but the information collection for these requirements is not part of this OMB approval request).

This OMB approval request is only for the burden associated with the electronic submission of the content of labeling. The burden for submitting labeling as part of NDAs, ANDAs, supplemental NDAs and ANDAs, and annual reports, has been approved by OMB under control number 0910–0001.

We estimate that it should take applicants approximately 1.25 hours to convert the content of labeling from Word or PDF to structured labeling format (SPL) format. The main task involved in this conversion is copying the content from one document (Word or PDF) to another (SPL). Over the past few years, several enhancements have been made to SPL authoring software which significantly reduces the burden and time needed to generate well-formed SPL documents. SPL authors may now copy a paragraph from a Word or PDF document and paste the text into the appropriate section of an SPL document. In those cases where an SPL author needs to create a table, the table text may be copied from the Word or PDF document and pasted into each table cell in the SPL document, eliminating the need to retype any information. Enhancements have also been made to the software for conversion vendors. Conversion software vendors have designed tools which will import the Word version of the content of labeling and, within minutes, automatically generate the SPL document (a few formatting edits may have to be made).

Based on the number of content of labeling submissions received during the past few years, we estimate that approximately 5,750 content of labeling submissions are made annually with original NDAs, ANDAs, supplemental NDAs and ANDAs, and annual reports by approximately 500 applicants. Therefore, the total annual hours to convert the content of labeling from Word or PDF to SPL format would be approximately 7,187.50 hours.

Concerning costs, we conclude that there are no capital costs or operating and maintenance costs associated with this collection of information. In May 2009, FDA issued a guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Listing.'' The guidance describes how to electronically create and submit SPL files using defined code sets and codes for establishment registration and drug listing information, including labeling. The information collection resulting from this guidance, discussed in the **Federal Register** of January 8, 2009 (74 FR 816), has been approved by OMB under control number 0910–0045. As discussed in the January 8, 2009, **Federal Register** notice, to create an SPL file and submit it to FDA, a registrant would need the following tools: A computer, appropriate software, access to the Internet, knowledge of terminology and standards, and access to FDA's electronic submission gateway (ESG). Registrants (and most individuals) have computers and Internet access available for their use. If a business does not have an available computer or access to the Internet, free use of computers and the Internet are usually available at public facilities, e.g., a community library. In addition, there should be no additional costs associated with obtaining the appropriate software. In 2008, FDA collaborated with GlobalSubmit to make available free SPL authoring software that SPL authors may utilize to create new SPL documents or edit previous versions. (Information on obtaining this software is explained in section IV.A of the guidance ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Listing.'') In addition to the software, FDA also provides technical assistance and other resources, code sets and codes, and data standards regarding SPL files.

After the SPL file is created, the registrant would upload the file through the ESG, as explained in the January 8, 2009, **Federal Register** notice. A digital certificate is needed to use the ESG. The digital certificate binds together the owner's name and a pair of electronic keys (a public key and a private key) that can be used to encrypt and sign documents. A fee of up to $20.00 is charged for the digital certificate and the registrant may need to renew the certificate not less than annually. We are not calculating this fee as a cost for this extension because all applicants who submit content of labeling are also subject to the drug establishment registration and listing requirements and would have already acquired the digital certificate as a result of the May 2009 guidance on drug establishment registration and listing.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Content of labeling submissions in NDAs, ANDAs, supplemental NDAs and ANDAs, and annual reports	Number of respondents	Number of responses per response	Total annual responses	Average burden per response	Total hours
	500	11.50	5,750	1.25	7,187.50

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 24, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–12825 Filed 5–29–13; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0495]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Experimental Study on Consumer Responses to Nutrition Facts Labels With Various Footnote Formats and Declaration of Amount of Added Sugars

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 1, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–New and title ''Experimental Study on Consumer Responses to Nutrition Facts Labels with Various Footnote Formats and Declaration of Amount of Added Sugars.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400T, Rockville, MD 20850, *domini.bean@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Experimental Study on Consumer Responses to Nutrition Facts Labels with Various Footnote Formats and Declaration of Amount of Added Sugars—(OMB Control Number 0910–New)

I. Background

Under the Nutrition Labeling and Education Act of 1990 (Pub. L. 101–535), the Nutrition Facts label is required on most packaged foods and this information must be provided in a specific format in accordance with the provisions of § 101.9 (21 CFR 101.9). When FDA was determining which Nutrition Facts label format to require, the Agency undertook consumer research to evaluate alternatives (Refs. 1 to 3). More recently, FDA conducted qualitative consumer research on the format of the Nutrition Facts label on behalf of the Agency's Obesity Working Group (Ref. 4), which was formed in 2003 and tasked with outlining a plan to help confront the problem of obesity in the United States (Ref. 5). In addition to conducting consumer research, in the **Federal Register** of November 2, 2007 (72 FR 62149), FDA issued an Advance Notice of Proposed Rulemaking (ANPRM) entitled, ''Food Labeling: Revision of Reference Values and Mandatory Nutrients'' (the 2007 ANPRM), which requested comments on a variety of topics related to a future proposed rule to update the presentation of nutrients and content of nutrient values on food labels. In the 2007 ANPRM, the Agency included a request for comments on how consumers use the percent Daily Value in the Nutrition Facts label when evaluating the nutritional content of food items and making purchases.

Research has suggested that consumers use the Nutrition Facts label in various ways, including, but not limited to, using the Nutrition Facts label to determine if products are high or low in a specific nutrient and to compare products (Ref. 6). One component of the Nutrition Facts label that serves as an aid in these uses is the percent Daily Value. Early consumer research indicated that the percent Daily Value format improved consumers' abilities to make correct dietary judgments about a food in the context of a total daily diet (Ref. 3), which led FDA to require both quantitative and percentage declarations of nutrient Daily Values in the Nutrition Facts label in the 1993 Nutrition Labeling final rule (58 FR 2079, January 6, 1993).

Research in subsequent years, however, suggested that consumers' understanding and use of percent Daily Value may be somewhat inconsistent (Refs. 7 and 8). Additionally, FDA has received several public comments suggesting that further research on percent Daily Values may be warranted, along with research on other modifications to the Nutrition Facts label. Suggested research on potential modifications includes research on: (1) The removal of the statements, ''Percent Daily Values are based on a 2,000 calorie diet. Your Daily Values may be higher or lower depending on your calorie needs''; (2) the removal of the table in the footnote that lists the Daily Values for total fat, saturated fat, cholesterol, sodium, total carbohydrate, and dietary fiber based on 2,000 and 2,500 calorie diets as described in § 101.9(d)(9); and (3) changes to the presentation of and amount of information provided in the Nutrition Facts label. Therefore, the FDA, as part of its effort to promote public health, proposes to use this study to explore consumer responses to various food label formats for the footnote area of the Nutrition Facts label, including those that exhibit information such as a description of percent Daily Value, a succinct statement about daily caloric intake, a general guideline for interpreting percent Daily Values, or a footnote about nutrients whose daily intake should be limited.

This study will also explore how declaring the added sugars content of foods might affect consumers' attention to and understanding of the sugars and calorie contents and other information on the Nutrition Facts label. FDA received numerous comments regarding the declaration of added sugars in response to the 2007 ANPRM even though the Agency did not ask any

questions regarding the declaration of added sugars. The Agency is not aware of any existing consumer research that has examined this topic and is therefore interested in using this study to enhance its understanding of how consumers might currently perceive and use this new information if it is presented on the Nutrition Facts label.

The proposed collection of information is a controlled, randomized, experimental study. The study will use a Web-based survey, which will take about 15 minutes to complete, to collect information from 10,000 English-speaking adult members of an online consumer panel maintained by a contractor. The study will aim to recruit a sample that reflects the U.S. Census on gender, education, age, and ethnicity/race.

The study will randomly assign each of its participants to view Nutrition Facts label images from a set of food labels that will be created for the study. The label formats will vary in the presence or absence of: (1) A footnote describing percent Daily Value (''The % Daily Value tells you how much a nutrient in a serving of food contributes to a daily diet''); (2) a footnote indicating those nutrients whose daily intake should be limited (i.e., saturated fat, trans fat, cholesterol, sodium, and sugars); (3) a footnote including a general guideline for interpreting percent Daily Values, such as, ''5% or less is a little, 20% or more is a lot''; (4) a footnote including a succinct statement about daily caloric intake (e.g., ''2,000 calories a day is used for general nutrition advice, but people have different calorie needs''); and (5) a declaration for added sugars. All label images will be mockups resembling Nutrition Facts labels that may be found in the marketplace. Images will show product identity (e.g., yogurt or frozen meal), but not any real or fictitious brand name.

The survey will ask its participants to view label images and answer questions about their understanding, perceptions, and reactions related to the viewed label. The study will focus on the following types of consumer reactions: (1) Judgments about a food product in terms of its nutritional attributes and overall healthfulness; (2) ability to use the Nutrition Facts label in tasks, such as comparing two products, identifying a product's nutrient contents, and evaluating the levels of vitamin, mineral, and other nutrient content of a product; and (3) label perceptions (e.g., helpfulness and credibility). To help understand consumer reactions, the study will also collect information on participants' background, including but not limited to, use of the Nutrition Facts label and health status.

The study is part of the Agency's continuing effort to enable consumers to make informed dietary choices and construct healthful diets through labeling, consumer education, or both. Results of the study will be used primarily to enhance the Agency's understanding of how various potential modifications to the Nutrition Facts label may affect how consumers perceive a product or a label, which may in turn affect their dietary choices, and how to better educate people in using the Nutrition Facts label. Results of the study will not be used to develop population estimates.

In the **Federal Register** of May 31, 2012 (77 FR 32120), FDA published a 60-day notice requesting public comment on the proposed collection of information. The Agency received 19 written responses containing multiple comments. Many comments outlined detailed technical feedback regarding the design of a draft questionnaire that was associated with a **Federal Register** notice published on December 29, 2011 (76 FR 81948). That notice was officially withdrawn in a subsequent **Federal Register** notice published on May 31, 2012 (77 FR 32122), and all documentation associated with the withdrawn notice is considered obsolete. The Agency also received comments related to the declaration of added sugars on the Nutrition Facts label. To the extent that comments about added sugars declarations raised regulatory, policy, and nutrition science issues, the Agency notes that such comments are not directly related to the proposed consumer research and are therefore not addressed in this notice.

The responses included in this notice address comments that pertain directly to the currently proposed collection of information. Specifically, this notice addresses those comments that relate to the topics on which the FDA invited comments in the **Federal Register** of May 31, 2012: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

(Comment 1) While a number of comments supported the proposed collection of information, a number of comments also questioned whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility. Among the issues raised with regard to whether the information is necessary for the proper performance of FDA's functions was whether the Agency has sufficient justification to require, or the ability to enforce, added sugars declarations on Nutrition Facts labels. These comments discussed an uncertain relationship between added sugars and chronic health conditions, the current inability of most analytical methods to detect added sugars content in foods, and views on added sugars declarations that the Agency has historically expressed.

(Response 1) The Dietary Guidelines for Americans 2010 (2010 DGA) recommend the reduction in consumption of added sugars which currently comprise 16% of the daily energy intake. The DGA noted that ''many foods that contain added sugars often supply calories, but few or no essential nutrients and no dietary fiber.'' The current Nutrition Facts label does not permit the declaration of added sugars on the label. Section 403(q)(2)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) provides that the Secretary of Health and Human Services may, by regulation, require other nutrients to be declared in nutrition labeling if the Secretary determines that a nutrient will provide information regarding the nutritional value of a food that will assist consumers in maintaining healthy dietary practices. The Agency proposes to examine added sugars declarations, along with other label modifications, in this information collection. The information gathered will have utility for the Agency as general information about consumers' current perceptions and use of information appearing on the Nutrition Facts label and will inform future education efforts. The study may also inform the Agency about what changes it should consider related to the Nutrition Facts label. The Agency's proposal to conduct consumer research on added sugars declarations does not constitute a proposal for changes in which nutrients must or may be declared on the Nutrition Facts label. Comments concerning regulatory, policy, and nutrition science related to added sugars declarations are outside the scope of this proposed collection of information. If and when the Agency

proposes changes to the current format and content of the Nutrition Facts label, the public will be invited to comment on the relevant regulatory, policy, and nutrition science questions. Further, the concerns raised by the comments would not necessarily preclude the Agency from proposing changes to the Nutrition Facts label that may be informed by this study.

(Comment 2) A number of comments offered suggestions about additional consumer research or raised policy or nutrition science matters for consideration. Specifically, one comment recommended that FDA evaluate the effects of labels that show only added sugars and juice sugars, instead of showing total sugars. The same comment also suggested that FDA test consumers' understanding of how much sugar a food contains when amounts are provided in teaspoons as opposed to grams. Two comments urged FDA to set a daily value for sugars, added sugars, or both. One comment urged FDA to evaluate the effect on consumers of distinguishing between whole versus refined fiber on the Nutrition Facts label, as recommended by the Institute of Medicine. One comment suggested identifying a disqualifying level of total or added sugars that would make a product ineligible to have a health claim on its packaging because certain foods that are high in sugars may bear health claims and mislead consumers to think a product is healthier than it is. One comment noted that certain juice products may have more added sugars than, but the same or lower level of total sugars as, other juice or dried fruit products. The comment claimed that highlighting added sugars would minimize the health benefits of those products that contain more added sugar but lower total sugar than other juice or fruit products.

(Response 2) These comments are outside of the scope of the proposed collection of information described in the 60-day notice and therefore are not addressed here.

(Comment 3) Multiple comments cited the importance of evaluating consumer responses to potential changes to the Nutrition Facts label and how consumer understanding of the nutritional attributes of packaged foods may be affected by these changes, and therefore supported the proposed study.

(Response 3) The Agency agrees with these comments.

(Comment 4) Multiple comments noted the importance of educating consumers about how to make positive food choices, rather than relying solely on Nutrition Facts labeling as a method of assisting consumers in maintaining healthy dietary practices.

(Response 4) FDA agrees that consumer education is important to help consumers understand how to make healthy dietary choices, and has been conducting and sponsoring a variety of education efforts through its Web site (e.g., Refs. 9 to 14) and other programs such as the ''Spot the Block'' campaign (Refs. 13 and 14). The results of the proposed study will provide the Agency additional information to help guide future consumer education about how to use food labels to make healthy dietary choices.

(Comment 5) One comment noted that while Internet-administered questionnaires minimize burden on respondents and possible administration errors, expedite the timeliness of data collection and processing, and are less intrusive and less costly than other modes of questionnaire administration, there are also drawbacks to this mode of survey administration. Two comments noted limitations pertaining to online consumer panels, specifying that because panel-based samples are not representative of the general U.S. population, the results of the study cannot be applied to all U.S. consumers. One comment questioned why the Agency has not elected to restrict the research to respondents who shop for food or who read Nutrition Facts labels. The comment suggested that the study should screen for consumers who have a high probability of seeing Nutrition Facts labels or who actually consume or purchase the types of food products to be included in the proposed study.

(Response 5) The Agency acknowledges the limitations of Internet-administered research and the constraints associated with using samples drawn from online consumer panels. We note that the study is a controlled experimental study that would employ random assignment and is intended to examine causal relationships between certain label format modifications and respondents' reactions to the modifications. The study is not a survey that aims to generate population estimates of how many consumers would react to different modifications in particular ways. Because the study is not intended to generate population estimates, the Agency disagrees that the limitations of the sample would preclude meaningful conclusions about potential effects of the label format modifications, or that the study should be limited to participants characterized by particular label use or product use habits. In describing the data collected and results of the analysis, FDA will clearly acknowledge that the experimental data do not provide nationally representative population estimates of consumer understanding, behaviors, or perceptions, but nevertheless provide valid and quantitative estimates of differences across experimental conditions.

(Comment 6) Three comments expressed concern about asking respondents to judge the overall healthfulness of the products they view in the study. These comments noted that consumers' definitions of healthfulness may or may not be consistent with FDA's regulatory definition of healthy. Because different consumers are likely to define ''healthier'' using different criteria, one comment suggested providing a definition of ''healthier'' to ensure that all respondents are using the same definition. The comment asserted that because respondents may use idiosyncratic bases for responding to such questions, it is unclear how the results can be compared across respondents. The same comment noted similar concerns about asking participants to report their perceptions of how much sugar a product contains, how well they understand the content of a given label, or how likely they would be to include a given product as part of their diet.

(Response 6) The Agency disagrees with these comments. These comments fail to account for the randomized, controlled, experimental design of the proposed research and mischaracterize the primary function of the selected measures in the context of the proposed study. The proposed study is not a cross-sectional survey, but rather an experiment. Relative to cross-sectional surveys, properly designed experiments are better able to determine causal effects attributable to the independent variables, such as the nutrient levels shown on the Nutrition Facts label, which have been systematically varied by the experimenter. As an experiment, the focus is on the differences observed between treatment groups (e.g., those who see labels with format modifications) and control groups (e.g., those who see labels in the current Nutrition Facts format). Because participants will be randomly assigned to experimental conditions that systematically vary in certain respects, idiosyncratic variations, such as individuals' understanding of healthfulness and different ways of judging the relative nutrient content of various foods, are likely to be distributed evenly across conditions. As a result, differences in outcomes that

may be observed between conditions would most likely be due to experimental factors as opposed to individual idiosyncrasies.

Thus, the Agency has proposed an experimental method for understanding the causal effects of added sugars declarations on consumer responses to Nutrition Facts labels. The measurement approaches selected for the proposed study are well-established and have been employed in numerous peer-reviewed scientific publications (see, for example, Refs. 1 to 3; 15 to 24). In studies such as these, participants demonstrate their practical understanding of the nutritional information about selected foods through their completion of selected dietary tasks, such as comparing the healthfulness of different food items or judging how healthful they think a product is. Importantly, research has demonstrated that if consumers perceive that a product is healthful, they may be more likely to purchase or consume more of that food, and may be more likely to view that food as possessing other positive attributes that it may not objectively have (Refs. 25 and 26). Thus, consumer judgments of product healthfulness as well as calorie and nutrient levels will serve as vital indicators of how various Nutrition Facts information and formats may assist consumers in identifying healthful food products and in comparing the calorie and nutrient contents of different food products. In turn, data derived from this research will assist the Agency in determining directions for future research and educational activities.

For the purposes of this study, it is not necessary to provide consumers with a specific definition of ''healthier.'' The study aims to examine what consumers may infer from the Nutrition Facts labels based on their own interpretations, not to examine definitions of ''healthy'' or ''healthier'' according to regulatory or scientific perspectives. Evaluating potential effects of added sugars declarations on consumers with a diverse range of nutrition knowledge using a randomized, controlled, experimental study will provide useful information about consumers' current perceptions and use of information appearing on the Nutrition Facts label and will inform future education efforts.

While random assignment is the most robust method for significantly reducing the plausibility of individual difference explanations for observed differences between treatment and control conditions, we also plan to collect measures of individual characteristics that will allow for some statistical control of potential confounders. The measurement of these additional covariates (e.g., how often people eat and purchase the categories of foods included in the study, people's typical label use frequency, demographic characteristics, etc.) will further enhance the study's explanatory power.

(Comment 7) One comment questioned the utility of collecting participants' ratings of a given label's usefulness and helpfulness for making various dietary judgments.

(Response 7) The measures to which this comment refers (e.g., asking respondents to rate on a scale from 1 = ''not at all'' to 5 = ''very'' how hard it is to understand the information shown on the label) are indicators of consumers' attitudinal responses toward the label formats. FDA draws a distinction between these types of attitudinal measures and behavioral performance measures (i.e., how well consumers use a label format for completing a specific task, such as judging healthfulness and identifying nutritional characteristics of a product). The Agency has typically considered behavioral performance measures to be more consequential than ratings of label usefulness, understandability, and helpfulness. Nevertheless, the Agency also collects these ratings because it is possible that inferior ratings of usefulness, understandability, and helpfulness could be indicative of a potential problem with a particular label modification or label format. It is therefore important to collect these kinds of ratings.

(Comment 8) Some comments asserted that including added sugars declarations would detract from consumers' focus on other nutrition information, specifically total calories. Related comments noted that consumers would be confused or misled by added sugars declarations. A few comments proposed that consumer research should focus on exactly how consumers understand the term ''added sugars,'' the particular meanings that consumers attach to various kinds of sugars, and the health effects that consumers associate with added sugars. Two comments asked if FDA plans to explore whether including ''added sugar'' and ''naturally occurring sugar'' on the Nutrition Facts label under total sugars would increase consumer understanding of products' nutritional attributes and healthfulness. One comment requested that the Agency establish definitions that differentiate between added sugars and naturally occurring sugars before conducting consumer research. These comments expressed concern that consumer understanding about sugars does not match definitions that might be endorsed by various regulatory or scientific entities. Another comment suggested that the Agency study how information about added sugars in ingredient listings might affect attention to and understanding of information in the Nutrition Facts.

(Response 8) The Agency agrees that the questions raised in these comments would be suitable for future research. The purpose of the currently proposed study is to provide the Agency with an initial understanding of potential consumer reactions to added sugars declarations on Nutrition Facts labels, information that would, in turn, help guide education efforts. In response to comments that raised concerns about the potential for added sugars declarations to affect consumer attention to and perceptions of other nutritional attributes presented in Nutrition Facts labels, FDA notes that the proposed experimental design is intended to address this possibility through the collection of respondent judgments of the nutritional attributes and overall healthfulness of foods that contain varying levels of calories, fat, and other nutrients. Additionally, as previously noted, FDA recognizes the importance of evaluating the potential effects of any proposed Nutrition Facts label modifications on consumer understanding. The proposed study will therefore include systematically varied experimental conditions and controls, and will employ appropriate measures to assess how various format modifications may affect consumer understanding of the Nutrition Facts label information. Due to resource limitations, the study cannot accommodate additional experimental conditions to evaluate consumer responses to ingredient listings. The study will, however, collect information about what names of various types of added sugars respondents recognize that might appear in ingredient listings.

(Comment 9) One comment objected to asking consumers about health effects (e.g., heart disease and diabetes) that consumers would associate with consuming a particular food product. The comment argued that consumer research questions should align with FDA's regulations regarding health claims, regulations which preclude suggestions that food substances may prevent, treat, or cure any particular disease or condition.

(Response 9) FDA disagrees with these comments. Several health conditions have been linked to dietary quality, and dietary quality is

influenced by consumer perceptions and food choices. Regardless of FDA's regulations, consumers often make their own inferences about the relationships between food substances and the risk of various health conditions from labeling information. Rigorous and informative consumer research that aims to assess consumer understanding of labeling information typically accounts for the broader inferences consumers may make about food products, although the particular health conditions of interest in a particular consumer research study may vary (as evident in Refs. 1 to 3 and 15 to 24). In order to assess the extent to which consumers may infer broader health outcomes from nutrition information on the label, the study will ask respondents to judge whether people concerned about conditions such as osteoporosis or cancer should include a particular food item in their diet.

(Comment 10) One comment suggested that, instead of asking respondents if they use Nutrition Facts labels ''To see if something said in advertising or on the package is actually true,'' the item be reworded to say ''To confirm a statement in advertising or on the package,'' arguing that the former implies that inconsistency may exist between advertising and labeling statements and that consumers can independently verify label declarations.

(Response 10) The comment did not provide any data to support this rationale, and the Agency is not aware of any evidence to suggest that consumers interpret the survey item in question in the manner described in the comment. Nevertheless, this comment is no longer applicable to the proposed study because the item in question has been removed in order to prioritize collection of other information that is considered more relevant to the objectives of the current study.

(Comment 11) One comment stated that if the Agency is intending to include added sugars information on the Nutrition Facts label by indenting the phrase ''Added Sugars'' below where the declaration for ''Sugars'' appears, it is possible that consumers may not understand that added sugars are a subset of the amount of sugars. The comment suggested that the Agency study consumer responses to a Nutrition Facts format that adds the word ''total'' to the sugars declaration, so that this alternative format can also be evaluated in the proposed consumer research, noting that it might be beneficial to test more than one added sugars declaration format.

(Response 11) The Agency agrees with this comment and will plan to include an alternative label format that adds the word ''total'' to the sugars declaration in the proposed research. Thus, the study will include two formats for declaring ''Added Sugars'' on the Nutrition Facts label: One format in which the declaration is indented below a ''Sugars'' declaration, and one format in which the declaration is indented below a ''Total Sugars'' declaration.

(Comment 12) One comment suggested that the Agency use the cognitive interviews to ask consumers their understanding of the phrase ''added sugars'' as it appears on some of the experimental Nutrition Facts formats. The comment also recommended that the number of cognitive interviews be sufficient to assess the level of comprehension of this terminology.

(Response 12) The Agency plans to conduct in-person cognitive interviews with participants of various ages, educational levels, and household incomes. The Agency agrees that it may be useful to ask cognitive interview participants about their understanding of the phrase ''added sugars'' and will include questions about this topic in all of the cognitive interviews that are conducted for the proposed study. Given that the primary purpose of the cognitive interviews is to assist with refinement of the questionnaire, the Agency does not agree that the number of cognitive interviews should be modified for assessing comprehension of added sugars terminology.

(Comment 13) One comment suggested that the proposed sample size for the study might be larger than necessary, unless the Agency expects to conduct subgroup analyses within experimental conditions.

(Response 13) As the comment noted, the Agency confirms that allowing for subgroup analyses constitutes one of the reasons for the proposed sample size. Another reason for the proposed sample size is to allow for assessment of interactions between the various experimental factors (e.g., label format × food category × nutrition profile). Indeed, the ability to detect interactions is of equal, if not more, importance to fulfilling the Agency's information objectives than the ability to detect only the main effects of experimental factors such as label format, food category, or nutrition profile.

(Comment 14) One comment suggested two alternative definitions for percent Daily Value: (1) ''The Percent Daily Value tells you how much of a day's worth of a nutrient one serving of this food provides''; and (2) ''The Percent Daily Value tells you how much of a day's worth of a nutrient you would get from one serving of this food.''

(Response 14) Due to resource limitations, the Agency is not able to test the alternative definitions of percent Daily Value suggested in this comment.

(Comment 15) One comment objected to asking respondents to evaluate whether a product is an ''excellent source'' of or ''low'' in a particular nutrient relative to footnote messages that indicate that 5% or less of the Daily Value for a nutrient is ''low'' or ''a little'' and 20% or more of the Daily Value is ''high'' or ''a lot.'' The comment raised concerns that consumers may not interpret or apply such footnote messages as FDA intends.

(Response 15) FDA agrees that some consumers may not interpret or apply a particular footnote message as FDA intends. That is one reason for asking respondents to characterize the vitamin and nutrient content of selected products. Collecting information about differences between consumer interpretations of information versus FDA definitions will help guide FDA's ongoing informational efforts to provide consumer guidance on how to use percent Daily Values.

(Comment 16) Two comments suggested that FDA test effects of including ''high'' and ''low'' text next to the appropriate nutrients on the NF label in accordance with the 5% and 20% guideline levels. One of these comments also suggested certain nutrients and their amounts be printed in red ink or against a red background, in conjunction with the word ''high'' being printed in red and positioned between the amount of the nutrient and the percent Daily Value.

(Response 16) The Agency has studied the use of adjectives such as ''high'' and ''low'' on Nutrition Facts labels in prior research (Refs. 1 and 3). That research found that Nutrition Facts formats that included adjectives did not significantly improve respondents' accuracy in dietary judgment tasks relative to Nutrition Facts formats that did not include such adjectives. Specifying a particular color scheme for selected content in the Nutrition Facts label or adding amount descriptors next to certain nutrients are beyond the scope of this study.

(Comment 17) One comment suggested testing alternative statements for recommended caloric intake, including statements of calorie ranges; statements indicating that calorie requirements change with age, height, and activity level; and statements suggesting consumers check their own caloric needs on a Government run Web site (e.g., *www.choosemyplate.gov*). A proposed sample statement offered was: ''The recommended daily intake for an

average adult is 2,000 calories. See *www.xxx.gov* for individual calorie needs based on gender, age and activity level.''

(Response 17) Due to resource limitations, the Agency is not able to test the alternative statements for recommended caloric intake suggested in this comment. In addition to calorie requirements changing with age, height, and activity level, as the comment stated, calorie requirements also vary according to a number of other factors, including body composition (percentages of lean body mass and body fat), basal and resting metabolic rate, ambient temperature, genetic factors, whether a woman is pregnant or lactating, and others. An accurate label statement explaining how calorie needs vary would be too lengthy and complex for inclusion on Nutrition Facts labels. Using the phrase ''recommended daily intake'' for calorie requirements, as the comment suggests, could also be problematic, since 2,000 calories is not a recommended intake level, but is rather used as the basis for setting Daily Reference Values (DRVs) for nutrients having DRVs that are based on caloric intake. Finally, there are many Web sites that provide information on estimating individual calorie needs. The question of whether it would be suitable for the Nutrition Facts label to single out any one particular Web site is beyond the scope of the study.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Cognitive interview screener	72	1	72	0.083 (5 min.)	6
Cognitive interview	9	1	9	1	9
Pretest invitation	1,000	1	1,000	0.033 (2 min.)	33
Pretest	150	1	150	0.25 (15 min.)	38
Survey invitation	40,000	1	40,000	0.033 (2 min.)	1,320
Survey	10,000	1	10,000	0.25 (15 min.)	2,500
Total					3,906

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

II. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

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11. U.S. Food and Drug Administration, ''How to Understand and Use the Nutrition Facts Label,'' available at *http://www.fda.gov/Food/IngredientsPackagingLabeling/LabelingNutrition/ucm274593.htm.*
12. U.S. Food and Drug Administration, ''Using the Nutrition Facts Label. A How-to Guide for Older Adults,'' available at *http://www.fda.gov/Food/ResourcesForYou/Consumers/ucm267499.htm.*
13. U.S. Food and Drug Administration, ''Spot The Block Campaign For Tweens,'' available at *http://www.fda.gov/Food/IngredientsPackagingLabeling/LabelingNutrition/ucm281757.htm.*
14. U.S. Food and Drug Administration. ''Spot the Block: Get Your Food Facts First,'' available at *http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm048815.htm.*
15. Andrews, J. C., S. Burton, and R. G. Netemeyer, ''Are Some Comparative Nutrition Claims Misleading? The Role of Nutrition Knowledge, Ad Claim Type and Disclosure Conditions,'' *Journal of Advertising,* vol. 29, pp. 29–42, 2000.
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Dated: May 24, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–12824 Filed 5–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0297]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Prevention of Salmonella Enteritidis in Shell Eggs During Production—Recordkeeping and Registration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 1, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0660. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400T, Rockville, MD 20850, 301–796–5733, *domini.bean@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Prevention of *Salmonella* Enteritidis in Shell Eggs During Production—Recordkeeping and Registration Provisions—21 CFR 118.10 and 118.11 (OMB Control Number 0910–0660)—Extension

Shell eggs contaminated with *Salmonella* Enteritidis (SE) are responsible for more than 140,000 illnesses per year. The Public Health Service Act (PHS Act) authorizes the Secretary to make and enforce such regulations as ''are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States . . . or from one State . . . into any other State'' (section 361(a) of the PHS Act). This authority has been delegated to the Commissioner of Food and Drugs. Under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(a)(4)), a food is adulterated if it is prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or rendered injurious to health. Under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act.

On July 9, 2009, FDA published in the **Federal Register** a final rule that established a regulation part 118 (21 CFR part 118) entitled ''Prevention of *Salmonella* Enteritidis in Shell Eggs During Production, Storage, and Transportation'' (74 FR 33030) (the Shell Eggs final rule''). Part 118 requires shell egg producers to implement measures to prevent SE from contaminating eggs on the farm and from further growth during storage and transportation, and requires these producers to maintain records concerning their compliance with the rule and to register with FDA. As described in more detail with regard to each information collection provision of part 118, each farm site with 3,000 or more egg-laying hens that sells raw shell eggs to the table egg market, other than directly to the consumer, must refrigerate, register, and keep certain records. Farms that do not send all of their eggs to treatment are also required to have an SE prevention plan and to test for SE.

Section 118.10 of FDA's regulations (21 CFR 118.10) requires recordkeeping for all measures the farm takes to prevent SE in its flocks. Since many existing farms participate in voluntary egg quality assurance programs, those respondents may not have to collect any additional information. Records are maintained on file at each farm site and examined there periodically by FDA inspectors.

Section 118.10 also requires each farm site with 3,000 or more egg-laying hens that sells raw shell eggs to the table egg market, other than directly to the consumer, and does not have all of the shell eggs treated, to design and implement an SE prevention plan. Section 118.10 requires recordkeeping for each of the provisions included in the plan and for plan review and modifications if corrective actions are taken.

Finally, § 118.11 of FDA's regulations (21 CFR 118.11) requires that each farm covered by § 118.1(a) register with FDA using Form FDA 3733. The term ''Form FDA 3733'' refers to both the paper version of the form and the electronic system known as the Shell Egg Producer Registration Module, which is available at *http://www.access.fda.gov.* The Agency strongly encourages electronic registration because it is faster and more convenient. The system the Agency has developed can accept electronic registrations 24 hours a day, 7 days a week. A registering shell egg producer will receive confirmation of electronic registration instantaneously once all the required fields on the registration screen are completed. However, paper registrations will also be accepted. Form

FDA 3733 is available for download for registration by mail or CD–ROM.

Recordkeeping and registration are necessary for the success of the SE prevention measures. Written SE prevention plans and records of actions taken due to each provision are essential for farms to implement SE prevention plans effectively. Further, they are essential for us to be able to determine compliance. Information provided under these regulations helps us to notify quickly the facilities that might be affected by a deliberate or accidental contamination of the food supply. In addition, data collected through registration is used to support our enforcement activities.

Description of Respondents: Respondents to this information collection include farm sites with 3,000 or more egg-laying hens that sell raw eggs to the table egg market, other than directly to the consumer.

In the **Federal Register** of March 27, 2013 (78 FR 18605), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received one letter in response to the notice; however, the letter did not contain comments responsive to the four information collection topics specified in the 60-day notice.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Description and 21 CFR Section	Number of record-keepers [2]	Number of records per recordkeeper	Total annual records	Average burden per record-keeping	Total hours
Refrigeration Records, 118.10(a)(3)(iv)	2,600	52	135,200	0.5	67,600
Testing, Diversion, and Treatment Records, 118.10(a)(3)(v–viii) (positive) [3]	343	52	17,836	0.5	8,918
Egg Testing, 118.10(a)(3)(vii)	331	7	2,317	8.3	19,231
Environmental Testing, 118.10(a)(3)(v) [3]	6,308	23	145,084	0.25	36,271
Testing, Diversion, and Treatment Records, 118.10(a)(3)(v–viii) (negative) [3]	5,965	1	5,965	0.5	2,983
Prevention Plan Review and Modifications, 118.10(a)(4)	331	1	331	10	3,310
Chick and Pullet Procurement Records, 118.10(a)(2)	4,731	1	4,731	0.5	2,366
Rodent and Other Pest Control, 118.10(a)(3)(ii) and Biosecurity Records,118.10(a)(3)(i)	9,462	52	492,024	0.5	246,012
Prevention Plan Design, 118.10(a)(1)	150	1	150	20	3,000
Cleaning and Disinfection Records, 118.10(a)(3)(iii)	331	1	331	0.5	166
Total Hours					389,857

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Some records are kept on a by-farm basis and others are kept on a by-house basis.
[3] Calculations include requirements for pullet and layer houses.

FDA is retaining most of the estimates published in the Shell Eggs final rule with regard to the estimated number of respondents and the average burden per recordkeeping (74 FR 33030 at 33089 to 33091). FDA bases the remaining recordkeeping burden estimates and the reporting burden estimates on its experience implementing the final rule and the number of registrations and cancellations received in the past 3 years.

The number of recordkeepers estimated in column 2 of Table 1 and all other estimates discussed in this section are drawn from estimates of the total number of layer and pullet houses affected by the Shell Eggs final rule (74 FR 33030 at 33078 to 33080). In the final rule, we assumed that those farms that were operating according to recognized industry or State quality assurance plans were already largely in compliance with the plan design and recordkeeping provisions discussed in this section, and therefore would not experience additional costs to comply with recordkeeping provisions. We found that 59 percent of farms with more than 50,000 layers were members of State or industry quality assurance plans. Fewer than 8 percent of farms with fewer than 50,000 layers were members of quality assurance plans. Thus, we estimated the number of layer farms incurring a new recordkeeping burden because of the Shell Eggs final rule to be 2,600, and the number of houses affected to be 4,731. A detailed breakdown of this estimation is shown in Table 29 of the Shell Eggs final rule (74 FR 33030 at 33078).

Prevention plan design (§ 118.10(a)(1)) records will be kept on a per farm basis but because the Shell Eggs final rule has been fully implemented, FDA assumes that new prevention plan design will only be undertaken by new entrants to the industry. Refrigeration records (§ 118.10(a)(3)(iv)) will also be kept on a per farm basis so the estimated number of recordkeepers for this provision is 2,600.

Records of chick and pullet procurement (§ 118.10(a)(2)), rodent and other pest control (§ 118.10(a)(3)(ii)), and biosecurity (§ 118.10(a)(3)(i)) will be kept on a per house basis, so the estimated number of recordkeepers for these provisions is 4,731.

Records of cleaning and disinfection (§ 118.10(a)(3)(iii)) will also be kept on a per house basis, but will only need to be kept in the event that a layer house tests environmentally positive for SE. Prevention plan review and modifications (§ 118.10(a)(4)) will also need to be performed every time a house tests positive. As discussed in Section V.F. of the Shell Eggs final rule (74 FR 33030 at 33078 to 33080), FDA estimated that 7.0 percent will test positive after the provisions of the rule took effect. Therefore, the number of recordkeepers for these provisions is estimated to be 331 (4,731 houses × 0.070) annually.

Records of testing, diversion, and treatment (§ 118.10(a)(3)(v–viii)) will be kept on a per house basis and will include records on flocks from pullet houses. In the Shell Eggs final rule, FDA estimated that there are one third as many pullet houses as there are layer houses. Therefore the total number of recordkeepers for these provisions is 6,308 (4,731 + (4,731/3)). The number of annual records kept depends on whether or not houses test positive for SE. Annually, 343 layer and pullet houses ((4,731 layer houses × 0.070) + ((4731/3 pullet houses) × 0.0075)) are expected to test positive and 5,965 are expected to test negative ((4,731 layer

houses × 0.930) + ((4731/3 pullet houses) × 0.9925)).

We assume that refrigeration records will be kept on a weekly basis on a per farm basis under § 118.10(a)(3)(iv)). We estimate that 2,600 recordkeepers will maintain 52 records each for a total of 135,200 records and that it will take approximately 0.5 hour per recordkeeping. Thus, the total annual burden for refrigeration records is estimated to be 67,600 hours (135,200 × 0.5 hour).

We assume that records of testing, diversion, and treatment under § 118.10(a)(3)(v–viii)) will be kept weekly in the event a layer house tests environmentally positive for SE. We estimate that 343 layer and pullet houses will test positive and thus 343 recordkeepers will maintain 52 records each for a total of 17,836 records and that it will take approximately 0.5 hour per recordkeeping. Thus, the total annual burden for testing, diversion, and treatment records in the event of a positive test result is estimated to be 8,918 hours (17,836 × 0.5 hour).

Given a positive environmental test for SE., we estimate the weighted average number of egg tests per house under § 118.10(a)(3)(vii)) to be 7. We estimate that 331 recordkeepers will maintain 7 records each for a total of 2,317 records and that it will take approximately 8.3 hours per recordkeeping. Thus, the total annual burden for egg testing is estimated to be 19,231 hours (2,317 × 8.3 hours).

FDA estimates that all 1,577 pullet and 4,731 layer houses not currently testing (6,308 recordkeepers) will incur the burden of a single environmental test annually under § 118.10(a)(3)(v)). The number of samples taken during the test depends on whether a farm employs the row based method (an average of 12 samples per house) or the random sampling method (32 samples per house). For the purposes of this analysis we estimate that roughly 50 percent of the houses affected will employ a row based method and 50 percent will employ a random sampling method, implying an average of 23 samples per house. Thus, we estimate that 6,308 recordkeepers will take 23 samples each for a total of 145,084 samples. The time burden of sampling is estimated on a per swab sample basis. We estimate that it will take approximately 15 minutes to collect and pack each sample. Thus, the total annual burden for environmental testing is estimated to be 36,271 hours (145,084 × 0.25 hour).

We estimate that records of testing, diversion, and treatment under § 118.10(a)(3)(v–viii)) will be kept annually in the event a layer house tests environmentally negative for SE. We estimate that 5,965 layer and pullet houses will test negative and thus 5,965 recordkeepers will maintain one record of that testing that will take approximately 0.5 hour per record. Thus, the total annual burden for testing, diversion, and treatment records in the event of a negative test result is estimated to be 2,983 hours (5,965 × 0.5 hour).

Prevention plan review and modifications under § 118.10(a)(4)) will need to be performed every time a house tests positive. As discussed, we estimate that 331 layer houses will test positive requiring plan review and modifications and that it will take 10 hours to complete this work. Thus, the total annual burden for prevention plan review and modifications in the event of a positive test result is estimated to be 3,310 hours (331 × 10 hours).

We estimate that chick and pullet procurement records under § 118.10(a)(2) will be kept roughly once annually per layer house basis. We estimate that 4,731 layer houses will maintain 1 record each and that it will take approximately 0.5 hour per recordkeeping. Thus, the total annual burden for chick and pullet procurement recordkeeping is estimated to be 2,366 hours (4,731 × 0.5 hour).

We estimate that rodent and other pest control records under § 118.10(a)(3)(ii)) and biosecurity records under § 118.10(a)(3)(i) will be kept weekly on a per layer house basis. We assume that 4,731 layer houses will maintain a weekly record under each provision. Thus, we estimate 9,462 recordkeepers will maintain 52 records each for a total of 492,024 records. We estimate a recordkeeping burden of 0.5 hours per record for a total of 246,012 burden hours (492,024 × 0.5 hour).

New prevention plan design required by § 118.10(a)(1) will only be undertaken by new farms and records will be kept on a per farm basis. We estimate that there are 150 new farm registrations annually and we assume that this reflects 150 new farms requiring prevention plan design. We estimate that it will take 20 hours to complete this work. Thus, the total annual burden for prevention plan design is estimated to be 3,000 hours (150 × 20 hours).

Cleaning and disinfection recordkeeping under § 118.10(a)(3)(iii) will need to be performed every time a house tests positive. As discussed, we estimate that 331 layer houses will test positive requiring 1 record each and that it will take approximately 0.5 hour per recordkeeping. Thus, the total annual burden for cleaning and disinfection recordkeeping in the event of a positive test result is estimated to be 166 hours (331 × 0.5 hour).

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Description and 21 CFR Section	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Registrations or Updates, 118.11.	Form FDA 3733 [2]	150	1	150	2.3	345
Cancellations, 118.11	Form FDA 3733	15	1	15	1	15
Total						360

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] The term "Form FDA 3733" refers to both the paper version of the form and the electronic system known as the Shell Egg Producer Registration Module, which is available at *http://www.access.fda.gov* per § 118.11(b)(1).

This estimate is based on FDA's experience implementing the Shell Eggs final rule and the average number of new Shell Egg Producer registrations and cancellations received in the past 3 years under § 118.11. Based on FDA experience with implementing the registration provisions of the Shell Eggs final rule, which had staggered compliance dates and gave producers with fewer than 50,000 but at least 3,000 laying hens until July 9, 2012, to register (74 FR 33030 at 33034), FDA expects that it will receive fewer registrations or updates each year over the next 3 years,

reflecting compliance with the final rule's registration deadlines. FDA estimates that it will receive 200 registrations or updates in 2013, 150 registrations or updates in 2014 and 100 registrations or updates in 2015, for an average of 150 registrations or updates per year over the next 3 years. FDA received 12 cancellations in 2011 and 19 cancellations in 2012. Based on this experience, FDA estimates that it will receive approximately 15 cancellations per year over the next 3 years.

FDA estimated in the Shell Eggs final rule that listing the information required by the final rule and presenting it in a format that will meet the Agency's registration regulations will require a burden of approximately 2.3 hours per average registration. As detailed in section V.F. of the final rule (see 74 FR 33030 at 33080), FDA estimates that it will take the average farm 2.3 hours to register taking into account that some respondents completing the registration may not have readily available Internet access. Thus, the total annual burden for new Shell Egg Producer registrations or updates is estimated to be 345 hours (150 × 2.3 hours).

FDA estimates cancelling a registration will, on average, require a burden of approximately 1 hour, taking into account that some respondents may not have readily available Internet access. Thus, the total annual burden for cancelling Shell Egg Producer registrations is estimated to be 15 hours (15 cancellations × 1 hour).

Dated: May 23, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–12790 Filed 5–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Arthritis Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Arthritis Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 22, 2013, from 8 a.m. to 4 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Cindy Hong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *AAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On July 22, 2013, the committee will discuss the Assessment of SpondyloArthritis international Society classification criteria for axial spondyloarthritis and the implications of using these criteria for drug approval.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 8, 2013. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 27, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 28, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Cindy Hong at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 24, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–12839 Filed 5–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Interdisciplinary, Community-Based Linkages; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL).

Date and Time: June 5, 2013 (10:00 a.m.–4:00 p.m.).

Place: Health Resources and Services Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, Maryland 20852, Room 9–94.

Status: The meeting will be open to the public.

Purpose: The members of the ACICBL will discuss the legislatively mandated 13th Annual Report to the Secretary of Health and Human Services and Congress tentatively titled *Transforming interprofessional health education and practice: moving learners from the campus to the community to enhance population health.* The meeting will afford committee members with the opportunity to revise recommendations and discuss population health, interprofessional education, care and competencies, cost effectiveness, best practices, and the like to develop the 13th report.

Agenda: The ACICBL agenda includes an overview of the Committee's general business activities and discussion sessions specific for the development of the 13th Annual ACICBL Report. The agenda will be available two days prior to the meeting on the HRSA Web site (*http://www.hrsa.gov/advisorycommittees/bhpradvisory/acicbl/acicbl.html*). Agenda items are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: Members of the public and interested parties may request to provide comments or attend the meeting via webinar by emailing their first name, last name and full email address to *BHPRAdvisoryCommittee@hrsa.gov* or by contacting Ms. Crystal Straughn at 301–443–3594. Access is by reservation only. The logistical challenges of scheduling this meeting hindered an earlier publication of this meeting notice.

FOR FURTHER INFORMATION CONTACT: Anyone requesting information regarding the ACICBL should contact Dr. Joan Weiss, Designated Federal Official within the Bureau of Health Professions, Health Resources and Services Administration, in one of three ways: (1) send a request to the following address: Dr. Joan Weiss, Designated Federal Official, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9C–05, 5600 Fishers Lane, Rockville, Maryland 20857; (2) call (301) 443–6950; or (3) send an email to *jweiss@hrsa.gov.*

Dated: May 22, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–12760 Filed 5–29–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 78 FR 16514–16515 dated March 15, 2013).

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA). Specifically, the Office of Management (RB4) will realign the Voluntary Leave Transfer Program from the Division of Management Services (RB43) to the Division of Human Resources Management (RB42) and update the functional statements for the Office of Management (RB4). These changes are to better align functional responsibility, improve accountability and to provide better customer service to both internal and external customers.

Chapter RB4—Office of Management

Section RB–10, Organization

Section RB–20, Functions

Delete in its entirety and replace with the following:

The Office of Management (RB4) is headed by the Director, Office of Management, who reports directly to the Chief Operating Officer, Office of Operations (RB). The Office of Management includes the following components:

(1) Division of Policy and Information Coordination (RB41);

(2) Division of Human Resources Management (RB42);

(3) Division of Management Services (RB43); and

(4) Division of Workforce Development (RB44).

(1) Delete the functional statement for the Office of Management (RB4) in its entirety and replace with the following:

Office of Management (RB4)

Provides HRSA-wide leadership, program direction, and coordination of all phases of administrative management. Specifically, the Office of Management: (1) Provides management expertise, staff advice, and support to the Administrator in program and policy formulation and execution; (2) provides administrative management services including human resources, property management, space planning, safety, physical security, and general administrative services; (3) conducts HRSA-wide workforce analysis studies and surveys; (4) plans, directs, and coordinates HRSA's activities in the areas of human resources management, including labor relations, personnel security, and performance; (5) coordinates the development of policy and regulations; (6) oversees the development of annual operating objectives and coordinates HRSA work planning and appraisals; (7) directs and coordinates the agency's organizations, functions and delegations of authority programs; (8) administers the agency's Executive Secretariat and committee management functions; (9) provides staff support to the agency Chief Travel Official; (10) provides staff support to the Deputy Ethics Counselor; and (11) directs, coordinates, and conducts workforce development activities for the agency.

Division of Policy and Information Coordination (RB41)

(1) Advises the Administrator and other key agency officials on cross-cutting policy issues and assists in the identification and resolution of cross-cutting policy issues and problems; (2) establishes and maintains tracking systems that provide HRSA-wide coordination and clearance of policies, regulations and guidelines; (3) plans, organizes and directs the Executive Secretariat with primary responsibility for preparation and management of written correspondence; (4) arranges briefings for Department officials on critical policy issues and oversees the development of necessary briefing documents; (5) coordinates the preparation of proposed rules and regulations relating to HRSA programs and coordinates review and comment

on other Department regulations and policy directives that may affect HRSA programs; (6) oversees and coordinates the committee management activities; and (7) coordinates the review and publication of **Federal Register** Notices.

Division of Human Resources Management (RB42)

(1) Provides advice and guidance on all aspects of the HRSA human resources management program; (2) provides the full range of human resources operations including: Employment; staffing and recruitment; compensation; classification; executive resources; labor and employee relations; employee benefits; and retirement; (3) develops and coordinates the implementation of human resources policies and procedures for HRSA's human resources activities; (4) monitors, evaluates, and reports on the effectiveness, efficiency, and compliance with HR laws, rules, and regulations; (5) provides advice and guidance for the establishment or modification of organization structures, functions, and delegations of authority; (6) manages the ethics program; (7) administers the agency's performance management programs; (8) manages the incentive and honor awards programs; (9) represents HRSA in human resources matters both within and outside of the Department; (10) oversees the commissioned corps liaison activities including the day-to-day operations of workforce management; (11) monitors accountability; and (12) manages the HR information technology.

Division of Management Services (RB43)

Plans, directs, and coordinates agency administrative activities. Specifically: (1) Provides administrative management services including property, space planning, safety, physical security, and general administrative services; (2) ensures implementation of statutes, Executive Orders, and regulations related to official travel, transportation, and relocation; (3) provides oversight for the HRSA travel management program involving use of travel management systems, passenger transportation, and travel charge cards; (4) provides planning, management, and oversight of all space planning projects, move services and furniture requirements; (5) develops space and furniture standards and related policies; (6) provides analysis of office space requirements required in supporting decisions relating to the acquisition of commercial leases; (7) provides advice, counsel, direction, and support to employees to fulfill the agency's primary safety responsibility of providing a workplace free from recognizable safety and health concerns; (8) manages, controls, and/or coordinates all matters relating to mail management within HRSA, including developing and implementing procedures for the receipt, delivery, collection, and dispatch of mail; (9) maintains overall responsibility for the HRSA Forms Management Program; and (10) manages the personnel security, badging, Transhare and quality of work life programs.

Division of Workforce Development (RB44)

(1) Plans, directs, and manages HRSA-wide training programs, intern, professional and leadership development programs, the long-term training program, and the mentoring program; (2) develops, designs, and implements a comprehensive strategic human resource leadership development and career management program for all occupational series throughout HRSA; (3) provides technical assistance in organizational development, career management, employee development, and training; (4) maximizes economies of scale through systematic planning and evaluation of agency-wide training initiatives to assist HRSA employees in achieving required competencies; (5) identifies relevant scanning/benchmarking on workforce and career development processes, services and products; (6) establishes policies governing major learning initiatives and new learning activities, and works collaboratively with other components of HRSA in planning, developing and implementing policies related to training initiatives; (7) plans, directs, and manages HRSA-wide training and service programs for fellowships and internships sponsored by other partner organizations and implemented within HRSA; (8) conducts agency-wide workforce analysis studies and surveys; (9) develops comprehensive workforce strategies that meet the requirements of the Office of Personnel Management and the Department of Health and Human Services, programmatic needs of HRSA, and the governance and management needs of HRSA leadership; and (10) evaluates employee development practices to develop and enhance strategies to ensure HRSA retains a cadre of public health professionals and reduces risks associated with turnover in mission critical positions.

Section RB4–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: May 15, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–12761 Filed 5–29–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment; 30-day Proposed Information Collecton: Indian Self-Determination and Education Assistance Contracts

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Indian Health Service (IHS) is submitting to the Office of Management and Budget (OMB) a request for renewal for the collection of information titled, ''Indian Self-Determination and Education Assistance Contracts, 25 C.F.R Part 900,'' OMB Control Number 1076–0136. This proposed information collection project was previously published in the **Federal Register** (78 FR 15035), as a joint submission with the Bureau of Indian Affairs (BIA), under OMB Control Number 1076–0136, on March 8, 2013 and allowed 60 days for public comment, as required by 3506(c)(2)(A). No public comment was received in response to the notice. The purpose of this notice is to allow 30 days for public comment to be submitted directly to OMB. This information collection expires May 31, 2013. As of May 2013, the IHS is pursuing its own OMB Control Number for this information collection and will publish notices separately from the BIA in the **Federal Register**.

DATE: Interested persons are invited to submit comments on or before July 1, 2013.

ADDRESSES: Send your comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated

response time, to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

Please send a copy of your comments to Mr. Chris Buchanan, Director, IHS Office of Direct Services and Contracting Tribes (ODSCT), 801 Thompson Ave., STE. 220, Rockville, MD 20852; send via facsimile to (301) 443–4666; or send via email to *Chris.Buchanan@ihs.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Mr. Chris Buchanan through the methods listed in the above section or by calling (301) 443–1104, regarding the IHS information collection activities. You may review the information collection request online at *http://www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Representatives of the IHS seek renewal of the approval for information collections conducted under 25 CFR part 900, implementing the Indian Self-Determination and Education Assistance Act (ISDEAA), as amended (25 U.S.C. 450 et seq.), which describes how contracts are awarded to Indian Tribes. The rule at 25 CFR part 900 was developed through negotiated rulemaking with Tribes in 1996 and governs, among other things, what must be included in a Tribe's initial ISDEAA contract proposal to IHS. A response is required to obtain and retain a benefit.

The information requirements for this rule represent significant differences from other agencies in several respects. Under the Act, the Secretary of Health and Human Services is directed to enter into self-determination contracts with Tribes upon request, unless specific declination criteria apply, and, generally, Tribes may renew these contracts annually, whereas other agencies provide grants on a discretionary or competitive basis. Additionally, IHS awards contracts for multiple programs whereas other agencies usually award single grants to Tribes.

The IHS uses the information collected to determine applicant eligibility, evaluate applicant capabilities, protect the service population, safeguard Federal funds and other resources, and permit the Federal agency to administer and evaluate contract programs. Tribal governments or Tribal organizations provide the information by submitting contract proposals, and related information, to the IHS, as required under Public Law 93–638. No third party notification or public disclosure burden is associated with this collection.

II. Request for Comments

The IHS requests your comments on this collection concerning: (a) the necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personally identifiable information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0136.

Title: Indian Self-Determination and Education Assistance Contracts, 25 C.F.R. Part 900.

Brief Description of Collection: An Indian Tribe or Tribal organization is required to submit this information each time that it proposes to contract with the IHS under the ISDEAA. Each response may vary in its length. In addition, each subpart of 25 CFR part 900 concerns different parts of the contracting process. For example, Subpart C relates to provisions of the contents for the initial contract proposal. The respondents do not incur the burden associated with Subpart C when contracts are renewed. Subpart F describes minimum standards for management systems used by Indian Tribes or Tribal organizations under these contracts. Subpart G addresses the negotiability of all reporting and data requirements in the contracts. Responses are required to obtain or retain a benefit.

Type of Review: Extension without change of currently approved collection.

Respondents: Federally recognized Indian Tribes and Tribal organizations.

Number of Respondents: 566.

Estimated Number of Responses: 1510.

Estimated Time per Response: Varies from 1 to 1040 hours, with an average of 11 hours per response.

Frequency of Response: Each time programs, functions, services or activities are contracted from the IHS under the ISDEAA.

Estimated Total Annual Hour Burden: 24,112.

Dated: May 23, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Services.

[FR Doc. 2013–12845 Filed 5–29–13; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: Women's Health Initiative Observational Study

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), 0020, the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 5, 2013 on pages 8152–8153 and allowed 60-days for public comment. One comment was received and an appropriate response was made. The purpose of this notice is to allow an additional 30 days for public comment. The NHLBI, National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments To OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project contact: Shari Eason Ludlam, Project Officer, Women's Health Initiative Program Office, 6701 Rockledge Drive, 2 Rockledge Centre, Room 9188, MSC 7913, Bethesda, MD 20892–7936, or call (301) 402–2900 or Email your request, including your address to: *ludlams@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Women's Health Initiative Observational Study. Revision- OMB No. 0925–0414, Expiration Date: 07/31/2013. National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH).

Need and Use of Information Collection: This study will be used by the NIH to evaluate risk factors for chronic disease among older women by developing and following a large cohort of postmenopausal women and relating subsequent disease development to baseline assessments of historical, physical, psychosocial, and physiologic characteristics. In addition, the observational study will complement the clinical trial (which has received clinical exemption) and provide additional information on the common causes of frailty, disability and death for postmenopausal women, namely, coronary heart disease, breast and colorectal cancer, and osteoporotic fractures. Continuation of follow-up years for ascertainment of medical history update forms will provide essential data for outcomes assessment for this population of aging women.

OMB approval is requested for 3 years. There are no costs to respondents other than their time, which is estimated at $308,218 for all respondents. The total estimated annualized burden hours are 13,927.

Type of respondent*	Number of respondents	Number of responses per response	Average burden per response (in hours)	Total annual burden hours
OS Participants	41,495	1	20/60	13,832
Next of kin	936	1	6/60	94
Physician/Office Staff	17	1	5/60	1

* Annual burden is placed on health care providers and respondent relatives/informants through requests for information which will help in the compilation of the number and nature of new fatal and nonfatal events.

Dated: May 14, 2013.

Michael S. Lauer,

Director, Division of Cardiovascular Sciences, NHLBI, National Institutes of Health.

Lynn W. Susulske,

Government Information Specialist, Freedom of Information and Privacy Act Branch, NHLBI, National Institutes of Health.

[FR Doc. 2013–12815 Filed 5–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed 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 meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; ZHD1 DSR–L (SR).

Date: June 7, 2013.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–2717, *leszcyd@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Subcommittee.

Date: June 28, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–2717, *leszcyd@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; ZHD1 DSR–Z (KH).

Date: July 10, 2013.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: July 16, 2013.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: July 30–31, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, Washington, DC 20015.

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of

Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., ROOM 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 23, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–12728 Filed 5–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel Senile Dementia.

Date: June 28, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William Cruce, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7704, *crucew@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 23, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–12727 Filed 5–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group NHLBI Institutional Training Mechanism Review Committee.

Date: June 20–21, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 23, 2013.

Michelle Trout,

Program Anallyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–12726 Filed 5–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2012–1047]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval to the following collection of information: 1625–0089, National Recreational Boating Survey. Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 1, 2013.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2012–1047], please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (DMF) (M–30), U.S. Department of Transportation (DOT), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand deliver:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at Room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, a copy is available from: Commandant (CG–612), Attn Paperwork Reduction Act Manager, US Coast Guard, 2100 2nd St. SW., STOP 7101, Washington DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–475–3929, for questions on these documents. Contact Ms. Barbara Hairston, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collection; and (4) ways to minimize the burden of the collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2012–1047], and must be received by July 1, 2013. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2012–1047], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2012–1047'' in the ''Keyword'' box. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2012–1047'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: [1625–0089].

Privacy Act

Anyone can search the electronic form of all comments received in 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 Privacy Act statement regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (77 FR 74686, December 17, 2012) required by 44 U.S.C. 3506(c)(2). That Notice elicited three comments.

1. The first commenter wrote: ''It would be helpful to recreational boaters if you would take the broadcast from channel 16 and 21 (VHF) as well as DSC distress calls and republish on a twitter feed. Local boaters could follow the feed for ''there'' [sic] area. (AOR) This is a simple but helpful solution to increase awareness for boating safety issues. Please contact me if you need more information. I am also in the CGA. Thanks.

Answer:

Although the proposed initiative could be potentially beneficial to recreational boaters, it is not within the scope of the National Recreational Boating Survey. This survey's primary goals include measuring boating participation and exposure hours. However, the suggestion made by this commenter will be examined within the broader scope of the Coast Guard's national recreational boating safety program.

2. The second commenter wrote: ''we have two federal agencies gouging american taxpayers for wasted tax dollars the sport fishing and boating council of the fws and the us coast guard. to me, the coast guad should be fully in charge of boating. i see absolutely no reason why taxpayers are being gouged to pay for the lobbying organization called the sport fishing and boating council, which obviously should be existing on private dollars and not giouging us taxpayers and pretending to be a federal agency working for the good of all americans, when clearly it is working for corporate profitability. when will the gouging of tax payers stop? when will we shut down obvioius loggying groups that should not be getting one cent of american taxpayers dollars like th esport fishing and boating council of the usfws. the excesses and out of control spending of this govt is oppressive. l out of 2 americans are living in poverty and they are being dunned for taxes so a boating council can operate wastefully, when they have no hope of ever in their lives getting on a boat. the washington excesses are disgusting and depraved. make some cuts here. the coast guard we need. take the money away from the boating council and give it to the coast guard, who should be defending this country's borders from the leaches massively sneaking in here.''[sic]

Answer:

The Coast Guard's National Recreational Boating Survey is presently the only nationwide survey sponsored by the federal government that focuses entirely on recreational boating. Other agencies may collect very limited data on recreational boaters, which does not interfere and is not redundant with the Coast Guard's data collection efforts.

3. The third commenter wrote: ''BoatUS is the largest organization of recreational boaters in the United States, with more than half a million members nationwide. As an active participant in the U.S. Coast Guard's boating safety efforts, we appreciate the opportunity to provide our views on the National Recreational Boating Survey.

The development of an accurate picture of the many facets of recreational boating is a commendable goal, particularly for the

government agency that has the day-to-day responsibility for its regulation. Well reasoned regulations, supported by timely, precise data, will engender greater support from the regulated community. That, in turn, should result in better compliance with regulations and an increased level of safety.

The current budget constraints faced by various government agencies and non-profit groups with a direct interest in boating safety should also be considered. In reviewing the supporting documentation for this information request, it is apparent this is an ambitious undertaking that will require significant, on-going resources. As this information request is reviewed, we suggest consideration be given to the impact its funding might have on other boating safety programs, particularly those administered by the non-profit sector.

We further believe that The U.S. Coast Guard should review the scope and methodology of the survey. In our view, gathering safety related information should be the priority. The breadth of this survey is too broad given current budget conditions. We also suggest greater use of the Internet, or other less costly methods to implement the survey. Given the continuing advances in access to the Internet by large sections of the United States populations (some 49 million U.S. households have such access) the Coast Guard should work to make greater use of this economical medium to gather data.

The development of timely, accurate data should be integral to the Coast Guard's recreational boating safety mission, and we support that goal. The cost of developing this data, which is funded by the recreational boating community itself through the Sport Fish Restoration and Boating Trust Fund, must, however, be carefully managed. Other crucial boating safety programs should not be sacrificed in the process of gathering this information. Thoughtful deployment of these funds to maximize their safety benefit is crucial to the continued support of the recreational boating community. Thank you for the opportunity to provide our views on the proposed survey.''

Answer:

• *Regarding the scope of the survey, the Coast Guard priority is to collect data that is pertinent to the safety program and will reduce redundancy and costs among federal and other partnering agencies. The Coast Guard will review its survey questionnaires before it is implemented, and strive to eliminate the collection of non-essential data. However, reducing the number of questions asked to survey participants will only have a marginal effect on the overall cost of the survey. This is due to the small number of questions that generally apply to the majority of survey respondents. Consequently, the Coast Guard will explore all cost-saving strategies to keep the survey costs reasonable.*

• *Regarding the use of the Internet for collecting information from boaters, the Coast Guard is already using that data collection mode to a certain extent. In 2012, a substantial amount of boating trip information was collected with the Internet. However, the Internet was used primarily as an alternative data collection mode that was offered to survey participants recruited in a panel from a previously selected random telephone sample.*

The Internet as the primary or sole data gathering tool is not yet widely used in government surveys, due to concerns that the Office of Management and Budget (OMB) has expressed about this approach. In a 2006 Memorandum for the President's Management Council, entitled ''Guidance on Agency Survey and Statistical Information Collections,'' OMB indicated the following:

''Recent estimates are that more than 50 percent of households have Internet access at home. Despite the increasing rate of Internet access in the U.S., there remain systematic differences in socio-demographic characteristics between those who have access to the Internet at home and those who do not. Thus, there are significant coverage errors in any sampling frame composed only of those who have access to the Internet, which could lead to biased estimates when generalizing to the national population.''

Nevertheless, the Coast Guard will continue using the Internet as an alternative data collection mode for boaters who were previously selected using well-established sample selection methods.

Information Collection Request

Title: National Recreational Boating Survey.

OMB Control Number: 1625–0089.

Type of Request: Extension of a currently approved collection.

Respondents: Recreational boating participants and owners of recreational vessels.

Abstract: The Coast Guard National Recreational Boating Survey collects data on recreational boating participants and exposure to hazards. The goal is for the Boating Safety Division to draw a general statistical profile of the U.S. recreational boating population. Of particular importance will be statistics on the type of boats used, activities associated with them, boat operators' knowledge of safety measures, and duration of a typical boating day (referred to as ''exposure''). Exposure data will be used to derive a reliable measure of the risk associated with recreational boating that can be used in all jurisdictions.

Forms: None.

Burden Estimate: This is a biennial requirement. The estimated burden has increased from 10,880 hours to 13,050 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 20, 2013.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2013–12775 Filed 5–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0037]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an approval of revisions to the following collection of information: 1625–0086, Great Lakes Pilotage. Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 1, 2013.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2013–0037], please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (DMF) (M–30), U.S. Department of Transportation (DOT), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand deliver:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, a copy is available from: COMMANDANT (CG–612), ATTN PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2100 2ND ST. SW.,

STOP 7101, WASHINGTON DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–475–3929, for questions on these documents. Contact Ms. Barbara Hairston, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collection; and (4) ways to minimize the burden of the collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2013–0037], and must be received by July 1, 2013. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2013–0037], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov*, and type ''USCG–2013–0037'' in the ''Keyword'' box. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2013–0037'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: [1625–0086].

Privacy Act

Anyone can search the electronic form of all comments received in 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 Privacy Act statement regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (78 FR 12083, February 21, 2013) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

Title: Great Lakes Pilotage.

OMB Control Number: 1625–0086.

Type of Request: Revision of a currently approved collection.

Respondents: The three U.S. pilot associations regulated by the Office of Great Lakes Pilotage and members of the public applying to become Great Lakes Registered Pilots.

Abstract: The Office of Great Lakes Pilotage is seeking a revision of OMB's current approval for Great Lakes Pilotage data collection requirements for the three U.S. pilot associations it regulates. This revision would require continued submission of data to an electronic collection system. This system is identified as the Great Lakes Electronic Pilot Management System which will eventually replace the manual paper submissions currently used to collect data on bridge hours, vessel delay, vessel detention, vessel cancellation, vessel movage, pilot travel, revenues, pilot availability and related data. This revision ensures the required data is available in a timely manner and allows immediate accessibility to data crucial from both an operational and rate-making standpoint. Additionally, this revision adds inclusion of a registration form (CG–4509) required to be completed by all registered and applicant pilots.

Forms: CG–4509.

Burden Estimate: The estimated burden increases to 19 hours a year with the addition of CG–4509 to this collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: May 20, 2013.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2013–12774 Filed 5–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0194]

Navigation Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Navigation Safety Advisory Council (NAVSAC). NAVSAC provides advice and recommendations to the Secretary of Homeland Security, through the Commandant of the U.S. Coast Guard, on matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.

DATES: Applicants must submit a cover letter and resume on or before July 12, 2013.

ADDRESSES: Applicants should submit a cover letter and resume via one of the following methods:

- *By mail:* Mr. Mike Sollosi, Alternate Designated Federal Officer (ADFO), Commandant (CG–NAV), U.S. Coast Guard 2100 2ND Street SW., STOP 7580, Washington, DC 20593–7580;
- By fax to 202–372–1991; or
- By email to *Mike.M.Sollosi@uscg.mil*

FOR FURTHER INFORMATION CONTACT: Mr. Mike Sollosi, the NAVSAC Alternate Designated Federal Officer (ADFO), at telephone 202–372–1545, fax 202–372–1991, or email *Mike.M.Sollosi@uscg.mil*; or Mr. Burt Lahn, NAVSAC coordinator, at telephone 202–372–1526, or email *burt.a.lahn@uscg.mil.*

SUPPLEMENTARY INFORMATION: NAVSAC is a federal advisory committee authorized by Title 33 United States Code Section 2073 and chartered under the *Federal Advisory Committee Act,* (Pub. L. 92–463; Title 5 U.S.C. App.). NAVSAC provides advice and recommendations to the Secretary, through the Commandant of the U.S. Coast Guard, on matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.

NAVSAC is expected to meet at least twice each year, or more often with the approval of the Designated Federal Officer (DFO). All members serve at their own expense and receive no salary from the Federal Government, although travel reimbursement and per diem may be provided for called meetings. The NAVSAC is comprised of not more than 21 members who shall have expertise in Inland and International vessel navigation Rules of the Road, aids to maritime navigation, maritime law, vessel safety, port safety, or commercial diving safety. Each member shall be appointed to represent the viewpoints and interests of one of the following groups or organizations, and at least one member shall be appointed to represent each membership category:

a. Commercial vessel owners or operators

b. Professional mariners

c. Recreational boaters

d. The recreational boating industry

e. State agencies responsible for vessel or port safety

f. The Maritime Law Association.

Members serve as representatives and are not Special Government Employees as defined in section 202(a) of Title 18, United States Code.

The Coast Guard will consider applications for seven positions that will become vacant on November 4, 2013, in the following categories:

a. Commercial vessel owners or operators

b. Professional mariners

c. Recreational boaters

d. State agencies responsible for vessel or port safety.

To be eligible, you should have experience in one of the categories listed above.

Members shall serve terms of office of up to three (3) years. Members may be considered to serve up to two (2) consecutive terms. In the event NAVSAC is terminated, all appointments to the Council shall terminate.

Registered lobbyists are not eligible to serve on Federal advisory committees. Registered lobbyists are lobbyists required to comply with provisions contained in the *Lobbying Disclosure Act of 1995* (Pub. L. 104–65 as amended by Title II of Pub. L. 110–81).

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and generic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Council, submit your complete application package to Mr. Mike Sollosi, NAVSAC ADFO via one of the transmittal methods provided above. Indicate the position you wish to fill and specify your area of expertise, knowledge and experience that qualifies you for service on NAVSAC. Note that during the pre-selection vetting process, applicants may be asked to provide their date of birth and social security number.

To visit our online docket, go to *https://www.regulations.gov.* enter the docket number (USCG–2013–0194) in the Search box, and click ''Search''. Please do not post your resume on this site.

Dated: May 23, 2013.

Dana A. Goward,

Director, Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2013–12776 Filed 5–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4116–DR; Docket ID FEMA–2013–0001]

Illinois; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Illinois (FEMA–4116–DR), dated May 10, 2013, and related determinations.

DATES: *Effective Date:* May 22, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Illinois is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 10, 2013.

Bureau, Crawford, Henderson, Knox, Livingston, Marshall, Mason, McDonough, Peoria, Rock Island, Schuyler, Stark, Tazewell, and Woodford Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora

Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–12842 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4117–DR; Docket ID FEMA–2013–0001]

Oklahoma; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oklahoma (FEMA–4117–DR), dated May 20, 2013, and related determinations.

DATES: *Effective Date:* May 21, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 21, 2013, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I authorize as a pilot project: 1) Eligible debris removal completed within thirty (30) days from the start of the incident period will be subject to an eighty-five percent (85%) Federal cost share; 2) Eligible debris removal completed between thirty-one (31) and ninety (90) days from the start of the incident period will be subject to an eighty percent (80%) Federal cost share; 3) Eligible debris removal completed during the authorized period of performance and after ninety (90) days of the start of the incident period will be subject to the standard seventy-five percent (75%) Federal cost share; and 4) For debris planning, an increase of two percent (2%) to the applicable Federal cost share for up to ninety (90) days from the start of the incident period for a debris removal subgrant when the subgrantee has adopted an acceptable debris management plan prior to the disaster event.

Eligible debris removal for the pilot is limited to the reimbursement of work performed by eligible applicants. Debris removed through Direct Federal Assistance is not eligible for the pilot cost share adjustments. Further, under this pilot program, FEMA shall obtain any applicable private insurance payments for debris removal to reimburse Federal costs to the extent permitted by law.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–12791 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4085–DR; Docket ID FEMA–2013–0001]

New York; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York (FEMA–4085–DR), dated October 30, 2012, and related determinations.

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

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 23, 2013, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), in a letter to W. Craig Fugate, Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage in certain areas of the State of New York resulting from Hurricane Sandy during the period of October 27 to November 8, 2012, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act'').

Therefore, I amend my declaration of October 30, 2012, as previously amended, to authorize Federal funds for all categories of Public Assistance at 90 percent of total eligible costs, except assistance previously designated at 100 percent Federal share.

This adjustment to State and local cost sharing applies only to Public Assistance costs and direct Federal assistance eligible for such adjustments under the law. The Robert T. Stafford Disaster Relief and Emergency Assistance Act specifically prohibits a similar adjustment for funds provided for Other Needs Assistance (Section 408) and the Hazard Mitigation Grant Program (Section 404). These funds will continue to be reimbursed at 75 percent of total eligible costs.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–12838 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4103–DR; Docket ID FEMA–2013–0001]

Eastern Band of Cherokee Indians; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Eastern Band of Cherokee Indians (FEMA–4103–DR), dated March 1, 2013, and related determinations.

DATES: *Effective Date:* May 22, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 22, 2013, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), in a letter to W. Craig Fugate, Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage to the lands associated with the Eastern Band of Cherokee Indians resulting from severe storms, flooding, landslides, and mudslides during the period of January 14–17, 2013, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act'').

Therefore, I amend my declaration of March 1, 2013, to authorize Federal funds for all categories of Public Assistance at 90 percent of total eligible costs.

This adjustment to the cost sharing applies only to Public Assistance costs and direct Federal assistance eligible for such adjustments under the law. The Robert T. Stafford Disaster Relief and Emergency Assistance Act specifically prohibits a similar adjustment for funds provided for the Hazard Mitigation Grant Program (Section 404). These funds will continue to be reimbursed at 75 percent of total eligible costs.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–12843 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4116–DR; Docket ID FEMA–2013–0001]

Illinois; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–4116–DR), dated May 10, 2013, and related determinations.

DATES: *Effective Date:* May 10, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 10, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Illinois resulting from severe storms, straight-line winds, and flooding during the period of April 16 to May 5, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Illinois.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, W. Michael Moore, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Illinois have been designated as adversely affected by this major disaster:

Cook, DeKalb, DuPage, Fulton, Grundy, Kane, Kendall, Lake, LaSalle, McHenry, and Will Counties for Individual Assistance.

All counties within the State of Illinois are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–12803 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Internal Agency Docket No. FEMA–4115–DR; Docket ID FEMA–2013–0001]

South Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–4115–DR), dated May 10, 2013, and related determinations.

DATES: *Effective Date:* May 10, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 10, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of South Dakota resulting from a severe winter storm and snowstorm during the period of April 8–10, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of South Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. You are further authorized to provide snow assistance under the Public Assistance program for a limited period of time during or proximate to the incident period. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gary R. Stanley, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of South Dakota have been designated as adversely affected by this major disaster:

Douglas, Hutchinson, Lincoln, McCook, Minnehaha, Shannon, and Turner Counties and the Pine Ridge Reservation located within Shannon County for Public Assistance. Snow assistance will be provided for a period of 48 hours for Shannon County and the Pine Ridge Reservation located within Shannon County.

All counties within the State of South Dakota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–12802 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4114–DR; Docket ID FEMA–2013–0001]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4114–DR), dated May 6, 2013, and related determinations.

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

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 6, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Iowa resulting from a severe winter storm during the period of April 9–11, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Direct Federal assistance is authorized. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Joe M. Girot, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Iowa have been designated as adversely affected by this major disaster:

Dickinson, Lyon, O'Brien, Osceola, and Sioux Counties for Public Assistance. Direct federal assistance is authorized.

All counties within the State of Iowa are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–12800 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4113–DR; Docket ID FEMA–2013–0001]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA–4113–DR), dated May 3, 2013, and related determinations.

DATES: *Effective Date:* May 3, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 3, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Minnesota resulting from a severe winter storm during the period of April 9–11, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Kari Suzann Cowie, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Minnesota have been designated as adversely affected by this major disaster:

Cottonwood, Jackson, Murray, Nobles, and Rock Counties for Public Assistance.

All counties within the State of Minnesota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–12768 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Aviation Security Customer Satisfaction Performance Measurement Passenger Survey

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0013, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves surveying travelers to measure customer satisfaction of aviation security in an effort to more efficiently manage airport performance.

DATES: Send your comments by July 29, 2013.

ADDRESSES: Comments may be emailed to TSAPRA@dhs.gov or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins at the above address, or by telephone (571) 227–3398.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0013; Aviation Security Customer Satisfaction Performance Measurement Passenger Survey. TSA, with OMB's approval, has conducted surveys of passengers and now seeks approval to continue this effort. TSA plans to conduct passenger surveys at airports nationwide. The surveys will be administered using an intercept methodology. The intercept methodology uses TSA personnel who are not in uniform to hand deliver paper survey forms to passengers immediately following the passenger's experience with the TSA's checkpoint security functions. Passengers are invited, though not required, to complete and return the survey using either an online

portal or by responding in writing to the survey questions on the customer satisfaction card and depositing the card in a drop-box at the airport or using U.S. mail; TSA personnel decide the method by which passengers will be asked to complete and return the survey. TSA uses the intercept methodology to randomly select passengers to complete the survey in an effort to gain survey data representative of all passenger demographics—including passengers who—

- Travel on weekdays or weekends;
- Those who travel in the morning, mid-day, or evening;
- Those who pass through each of the different security screening locations in the airport;
- Those who are subject to more intensive screening of their baggage or person; and
- Those who experience different volume conditions and wait times as they proceed through the security checkpoints.

The survey includes 10 to 15 questions. Each question promotes a quality response so that TSA can identify areas in need of improvement. All questions concern aspects of the passenger's security screening experience.

TSA collects this information in order to continue to assess customer satisfaction in an effort to more efficiently manage TSA employee performance. In its future surveys, TSA wishes to obtain more detailed, airport-specific data that TSA will use to enhance customer experiences and TSA employee performance. In order to gain more detailed information regarding customer experiences, TSA is submitting 84 questions to OMB for approval. Eighty-one questions have been previously approved by OMB and three questions are being submitted to OMB for the first time. The new questions will allow TSA to better measure customer satisfaction with Risk-Based Security, an effort to focus TSA resources and improve the passenger experience at security checkpoints by applying new intelligence-driven, risk-based screening procedures and enhancing the use of technology. Since there are some passengers who present a low level of risk, Risk-Based Security allows TSA to focus resources on higher-risk or unknown travelers, thereby increasing the level of security.

Each survey question seeks to gain information regarding one of the following categories:

- Confidence in Personnel
- Confidence in Screening Equipment
- Confidence in Security Procedures
- Convenience of Divesting
- Experience at Checkpoint
- Satisfaction with Wait Time
- Separation from Belongings
- Separation from Others in Party
- Stress Level

TSA personnel use a random method to select passengers to voluntarily participate in the survey until TSA obtains the desired sample size. The samples may be selected with one randomly selected time and location or span multiple times and locations. Designated TSA personnel at each airport may choose one or more of the following sample methods when planning the survey, which include a business card that directs customers to an online portal, a customer satisfaction card with survey questions on the card, or a customer satisfaction card with survey questions on the card and a link to the online portal. All responses are voluntary and there is no burden on passengers who choose not to respond.

TSA personnel at airports have the capability to conduct this survey. We estimate that TSA personnel at 25 airports will conduct the survey each year. Based on prior survey data and research, TSA assumes a maximum volume for the survey would be 1,000 surveys per airport. We assume the burden on passengers who choose to respond to be approximately five minutes per respondent. Therefore, 1,000 surveys × 25 airports = 25,000 respondents a year, the total burden is 25,000 × 5 = 125,000 minutes, or 2,083.3 hours per year.

Dated: May 23, 2013.

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2013–12778 Filed 5–29–13; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2006–24191]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Transportation Worker Identification Credential (TWIC) Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0047, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The Office of Management and Budget approved the collection of information for six months and TSA now seeks the maximum three-year approval. The collection involves the submission of identifying and other information by individuals applying for a TWIC and a customer satisfaction survey.

DATES: Send your comments by July 29, 2013.

ADDRESSES: Comments may be emailed to TSAPRA@dhs.gov or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins at the above address, or by telephone (571) 227–3398.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0047; Transportation Worker Identification Credential (TWIC) Program. TSA developed the Transportation Worker Identification Credential (TWIC) program to mitigate threats and vulnerabilities in the national

transportation system. TWIC is a common credential for all personnel requiring unescorted access to secure areas of facilities and vessels regulated under the Maritime Transportation Security Act (MTSA) and all mariners holding U.S. Coast Guard (Coast Guard) credentials. Before issuing an individual a TWIC, TSA performs a security threat assessment, which requires TSA to collect certain personal information such as name, address, and date of birth. Applicants are also required to provide fingerprints and undergo a criminal history records check.

The program implements authorities set forth in the Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71; Nov. 19, 2002; sec. 106), the Maritime Transportation Security Act of 2002 (MTSA) (Pub. L. 107–295; Nov. 25, 2002; sec. 102), and the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; Aug. 10, 2005; sec. 7105), codified at 49 U.S.C. 5103a(g). TSA and the U.S. Coast Guard issued a joint notice of proposed rulemaking (NPRM) on May 22, 2006, 71 FR 29396. After consideration of public comments on the NPRM, TSA issued a joint final rule with the Coast Guard on January 25, 2007 (72 FR 3492), applicable to the maritime transportation sector that would require this information collection.

TSA collects data from applicants during an optional pre-enrollment step or during the enrollment session at an enrollment center. TSA will use the information collected to conduct a security threat assessment, which includes: (1) a criminal history records check; (2) a check of intelligence databases; and (3) an immigration status check. TSA invites all TWIC applicants to complete an optional survey to gather information on the applicants' overall customer satisfaction with the enrollment process. This optional survey is administered by a Trusted Agent (a representative of the TWIC enrollment contractor, who performs enrollment functions) during the process to activate the TWIC. These surveys are collected at each enrollment center and compiled to produce reports that are reviewed by the contractor and TSA. The current estimated annualized hour burden is 829,774 hours and the estimated annualized cost burden is $47,633,777.

Dated: May 23, 2013.

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2013–12777 Filed 5–29–13; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2533–13; DHS Docket No. USCIS–2007–0028]

RIN 1615–ZB20

Extension of the Designation of El Salvador for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of El Salvador for Temporary Protected Status (TPS) for 18 months from September 10, 2013 through March 9, 2015.

The extension allows currently eligible TPS beneficiaries to retain TPS through March 9, 2015 so long as they otherwise continue to meet the terms and conditions of TPS status. The Secretary has determined that an extension is warranted because the conditions in El Salvador that prompted the TPS designation continue to be met. There continues to be a substantial, but temporary, disruption of living conditions in El Salvador resulting from a series of earthquakes in 2001, and El Salvador remains unable, temporarily, to handle adequately the return of its nationals.

Through this Notice, DHS also sets forth procedures necessary for nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) to re-register for TPS and to apply for renewal of their Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). Re-registration is limited to persons who have previously registered for TPS under the designation of El Salvador and whose applications have been granted. Certain nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions, if they meet: (1) At least one of the late initial filing criteria and (2) all TPS eligibility criteria (including continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001).

For individuals who have already been granted TPS under the El Salvador designation, the 60-day re-registration period runs from May 30, 2013 through July 29, 2013. USCIS will issue new EADs with a March 9, 2015 expiration date to eligible Salvadoran TPS beneficiaries who timely re-register and apply for EADs under this extension. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants will receive new EADs before their current EADs expire on September 9, 2013. Accordingly, through this Notice, DHS automatically extends the validity of EADs issued under the TPS designation of El Salvador for 6 months, from September 9, 2013 through March 9, 2014, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and their impact on Employment Eligibility Verification (Form I–9) and the E-Verify processes.

DATES: The 18-month extension of the TPS designation of El Salvador is effective September 10, 2013, and will remain in effect through March 9, 2015. The 60-day re-registration period runs from May 30, 2013 through July 29, 2013.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps*. You can find specific information about this extension of El Salvador for TPS by selecting ''TPS Designated Country: El Salvador'' from the menu on the left of the TPS Web page.
- You can also contact the TPS Operations Program Manager at the Family and Status Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at (202) 272–1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS notice. It is not for individual case status updates.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available

at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). Service is available in English and Spanish.

• Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
EU—European Union
Government—U.S. Government
IDB—Inter-American Development Bank
IJ—Immigration Judge
INA—Immigration and Nationality Act
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TPS—Temporary Protected Status
UN—United Nations
USAID—U.S. Agency for International Development
USCIS—U.S. Citizenship and Immigration Services
USD—U.S. dollars
WHO—World Health Organization

What is temporary protected status (TPS)?

• TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to persons without nationality who last habitually resided in the designated country.

• During the TPS designation period, TPS beneficiaries are eligible to remain in the United States and may obtain work authorization, so long as they continue to meet the requirements of TPS status.

• TPS beneficiaries may also be granted travel authorization as a matter of discretion.

• The granting of TPS does not lead to permanent resident status.

• When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other lawfully obtained immigration status they received while registered for TPS.

When was El Salvador designated for TPS?

On March 9, 2001, the Attorney General designated El Salvador for TPS based on an environmental disaster within that country, specifically the devastation resulting from a series of earthquakes that occurred in 2001. *See* 66 FR 14214, Mar. 9, 2001; section 244(b)(1)(B) of the INA, 8 U.S.C. 1254a(b)(1)(B). The last extension of TPS for El Salvador was announced on January 11, 2012, based on the Secretary's determination that the conditions warranting the designation continued to be met. *See* 77 FR 1710, Jan. 11, 2012 (correction 77 FR 2990, Jan. 20, 2012). This announcement is the ninth extension of TPS for El Salvador since the original designation in 2001.

What authority does the Secretary of Homeland Security have to extend the designation of El Salvador for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). *See* section 244(a)(1)(A) of the INA, 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* section 244(b)(3)(A) of the INA, 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation is extended for an additional 6 months (or in the Secretary's discretion for 12 or 18 months). *See* section 244(b)(3)(C) of the INA, 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* section 244(b)(3)(B) of the INA, 8 U.S.C. 1254a(b)(3)(B).

Why is the Secretary extending the TPS designation for El Salvador for TPS through March 9, 2015?

Over the past year, DHS and the Department of State (DOS) have continued to review conditions in El Salvador. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month extension is warranted because many of the adverse country conditions in El Salvador resulting from the environmental disaster that prompted the March 9, 2001 designation persist. As a result, the substantial, but temporary disruption of living conditions in the affected areas continue, and El Salvador remains temporarily unable to handle adequately the return of its nationals, hundreds of thousands of whom hold TPS but no other valid immigration status in the United States. *See* section 244(b)(1)(B) of the INA.

Three severe earthquakes in January and February 2001 in El Salvador resulted in the loss of over 1,000 lives, approximately 8,000 people injured, displacement of thousands more, extensive destruction of physical infrastructure, and severe damage to the country's economic system. *See* 66 FR 14214 (Mar. 9, 2001) (describing the devastation caused by the 2001 earthquakes). El Salvador's recovery is still incomplete, and significant damage remains to the country's infrastructure and public services in the affected areas.

Based on estimates reported by the U.S. Agency for International Development (USAID), the earthquakes affected approximately 1.5 million people, and El Salvador suffered catastrophic damage and losses. Economic losses (which include housing, infrastructure, and agriculture) were reported to be as high as $2.8 billion USD, almost 15 percent of El Salvador's gross domestic product at the time. In response to the devastation, the USAID, the Inter-American Development Bank (IDB), the World Bank, and the European Union (EU) initiated reconstruction throughout the country. Despite these programs, recovery in the affected areas of El Salvador has been slow and disrupted by subsequent natural disasters, including a recent 7.4 magnitude earthquake in 2012 and Tropical Depression 12E in October 2011. The Tropical Depression flooded approximately 10 percent of the country, caused $840 million USD in damage, displaced approximately 55,000 people, and led to a declaration of state of emergency throughout El Salvador. These most recent environmental disasters have compounded the already substantial disruption to living conditions resulting from the 2001 earthquakes.

According to the government of El Salvador, the 2001 earthquakes damaged or destroyed over 276,000

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to the Department of Homeland Security ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying HSA, tit. XV, sec. 1517).

housing units. Although the EU, Habitat for Humanity, and Cooperative Housing Foundation International have completed reconstruction and repair efforts, the Salvadoran government has previously estimated that only half of the homes that were destroyed have been rebuilt. Rebuilding efforts in the affected areas have also been hindered by Tropical Depression 12E.

According to the Ministry of Education of El Salvador, as of July 2004, over 2,300 schools destroyed in 2001 were rebuilt, but the remaining 270 schools damaged by the earthquakes required $21.7 million USD in financing to complete construction. The USAID Reconstruction Office also reported that the reconstruction of schools has been delayed at times due to the unavailability of funding.

The 2001 earthquakes also severely damaged approximately 55 percent of the country's capacity to deliver health services. Although it has been over 10 years since the 2001 earthquakes and most medical services were restored by 2011, the current infrastructure and conditions in El Salvador severely complicate the country's ability to absorb the return of its nationals from the United States, approximately 212,000 of whom are TPS beneficiaries. Rebuilding efforts in the affected areas have been further complicated by more recent natural disasters, including Tropical Depression 12E that damaged 19 hospitals and 238 health facilities–more than two times the number reported damaged in 2001.

The National Water Institution estimated that in the aftermath of the 2001 earthquakes, 40 to 50 percent of the Salvadoran population lacked access to potable water due to damage to the water and electrical systems. There are no accurate statistics on how many water and sanitation systems have been repaired since, but some studies show that the water treatment in urban areas has improved with four-fifths of the population gaining access to clean water. However, reports also convey that rural areas still need major improvements. According to the WHO and UN Children's Fund Joint Monitoring Program for Water Supply and Sanitation, in 2010 6 percent of urban dwellers and 24 percent of rural dwellers lacked access to water sources and the majority of households lacked continuous access to water. In terms of sewerage, 38 percent of urban dwellers and 98 percent of rural dwellers lack adequate sewage treatment. Living conditions remain disrupted in the areas affected by the devastation caused by the 2001 earthquakes. Those areas continue to face serious economic and infrastructure challenges and public health concerns stemming from the 2001 earthquakes.

The IDB approved a $44 million USD, 5-year, rural water and sanitation improvement program (which began in 2010 and is set to be completed in 2014). This program aims to improve living conditions through better water and sanitation services by building 85 water systems benefiting 6,000 households, and to increase water coverage to 80 percent in El Salvador's 100 poorest towns.

The 2001 earthquakes damaged some of El Salvador's main highways and made smaller roads impassable. Although the roads damaged in the earthquakes were repaired, they are still vulnerable to damage from natural disasters. Following the devastation experienced from the 2001 earthquakes, more recent environmental disasters have caused substantial setbacks to road and infrastructure recovery and development. El Salvador's location on the so-called Ring of Fire (an arc of fault lines circling the Pacific Basin), makes it vulnerable to earthquakes, volcanic eruptions, and flooding. A series of natural disasters have plagued El Salvador since 2001 that have compounded the initial devastation resulting from the 2001 earthquakes. Accordingly, many of the adverse conditions caused by the 2001 earthquakes continue to exist in the affected areas.

Although over a decade has passed, affected areas of El Salvador are still rebuilding from the devastating 2001 earthquakes. Reconstruction efforts have been further complicated by sluggish economic growth and by more recent natural disasters. This series of more recent natural disasters have compounded the initial devastation caused by the 2001 earthquakes, and El Salvador has endured severe, continuing, and sustained damage to its infrastructure. The UN Development Programme has classified El Salvador as among the most vulnerable countries in the world.

Based on this review and after consultation with appropriate Government agencies, the Secretary finds that:

- The conditions that prompted the March 9, 2001 designation of El Salvador for TPS continue to be met. *See* sections 244(b)(3)(A) and (C) of the INA, 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continues to be a substantial, but temporary, disruption in living conditions in affected areas of El Salvador as a result of an environmental disaster. *See* section 244(b)(1)(B) of the Act, 8 U.S.C. 1254a(b)(1)(B).
- El Salvador continues to be unable, temporarily, to handle adequately the return of its nationals (or aliens having no nationality who last habitually resided in El Salvador). *See* section 244(b)(1)(B) of the Act, 8 U.S.C. 1254a(b)(1)(B).
- The designation of El Salvador for TPS should be extended for an additional 18-month period from September 10, 2013 through March 9, 2015. *See* section 244(b)(3)(C) of the INA, 8 U.S.C. 1254a(b)(3)(C).
- There are approximately 212,000 current El Salvador TPS beneficiaries who are expected to be eligible to re-register for TPS under the extension.

Notice of Extension of the TPS Designation of El Salvador

By the authority vested in me as Secretary under section 244 of the INA, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies that the conditions that prompted the designation of El Salvador for TPS on March 9, 2001, continue to be met. *See* section 244(b)(3)(A) of the INA, 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am extending the existing TPS designation of El Salvador for 18 months from September 10, 2013 through March 9, 2015.

Janet Napolitano,

Secretary.

Required Application Forms and Application Fees to Register or Re-register for TPS

To register or re-register for TPS for El Salvador, an applicant must submit each of the following two applications:

1. Application for Temporary Protected Status (Form I–821).

- If you are filing an application for late initial registration, you must pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.2(f)(2) and 244.6 and information on late initial filing on the USCIS TPS Web page at *http://www.uscis.gov/tps.*
- If you are filing an application for re-registration, you do not need to pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.17.

and

2. Application for Employment Authorization (Form I–765).

- If you are applying for late initial registration and want an EAD, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you are age 14 through 65. No fee for the Application for Employment Authorization (Form I–

765) is required if you are under the age of 14 or are 66 and older and applying for late initial registration.

- If you are applying for re-registration, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you want an EAD.
- You do not pay the fee for the Application for Employment Authorization (Form I–765) if you are not requesting an EAD, regardless of whether you are applying for late initial registration or re-registration.

You must submit both completed application forms together. If you are unable to pay for the application and/or biometrics fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or submitting a personal letter requesting a fee waiver, and by providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Fees for the Application for Temporary Protected Status (Form I–821), the Application for Employment Authorization (Form I–765), and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

Refiling a Re-registration TPS Application After Receiving a Denial of a Fee Waiver Request

USCIS urges all re-registering applicants to file as soon as possible within the 60-day re-registration period so that USCIS can process the applications and issue EADs promptly. Filing early will also allow those applicants who may receive denials of their fee waiver requests to have time to re-file their applications *before* the re-registration deadline. If, however, an applicant receives a denial of his or her fee waiver request and is unable to re-file by the re-registration deadline, the applicant may still re-file his or her application. This situation will be reviewed to determine whether the applicant has established good cause for late re-registration. However, applicants are urged to re-file within 45 days of the date on their USCIS fee waiver denial notice, if at all possible. *See* section 244(c)(3)(C) of the INA; 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(c). For more information on good cause for late re-registration, visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* **Note:** As previously stated, although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the initial TPS application fee) when filing a TPS re-registration application, the applicant may decide to wait to request an EAD, and therefore not pay the Application for Employment Authorization (Form I–765) fee, until after USCIS has approved the individual's TPS re-registration, if he or she is eligible.

Mailing Information

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If . . .	Mail to . . .
Applying for re-registration and live in the following states: Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, DC, West Virginia.	*U.S. Postal Service:* U.S. Citizenship and Immigration Services, Attn: TPS El Salvador, P.O. Box 8635, Chicago, IL 60680–8635. *Non-U.S. Postal Delivery Service:* U.S. Citizenship and Immigration Services, Attn: TPS El Salvador, 131 S. Dearborn—3rd Floor Chicago, IL 60603–5517.
Applying for re-registration and live in the following states/territories: Alabama, Alaska, American Samoa, Arkansas, Colorado, Guam, Hawaii, Idaho, Iowa, Kansas, Louisiana; Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Northern Mariana Islands, Oklahoma, Puerto Rico, South Dakota, Tennessee, Texas, Utah, Virgin Islands, Wisconsin, Wyoming.	*U.S. Postal Service:* U.S. Citizenship and Immigration Services, Attn: TPS El Salvador, P.O. Box 660864, Dallas, TX 75266. *Non-U.S. Postal Delivery Service:* U.S. Citizenship and Immigration Services, Attn: TPS El Salvador, 2501 S. State Highway, 121 Business Suite 400, Lewisville, TX 75067.
Applying for re-registration and live in the following states: Arizona, California, Nevada, Oregon, Washington	*U.S. Postal Service:* U.S. Citizenship and Immigration Services, Attn: TPS El Salvador, P.O. Box 21800, Phoenix, AZ 85036. *Non-U.S. Postal Delivery Service:* U.S. Citizenship and Immigration Services, Attn: TPS El Salvador, 1820 E. Skyharbor Circle S, Suite 100, Phoenix, AZ 85034.
Applying for the first time as a late initial registration (all states/territories).	*U.S. Postal Service:* U.S. Citizenship and Immigration Services, Attn: TPS El Salvador, P.O. Box 8635, Chicago, IL 60680–8635. *Non-U.S. Postal Delivery Service:* U.S. Citizenship and Immigration Services, Attn: TPS El Salvador, 131 S. Dearborn—3rd Floor, Chicago, IL 60603–5517.

If you were granted TPS by an immigration judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD, or are re-registering for the first time following a grant of TPS by the IJ or BIA, please mail your application to the appropriate address in Table 1 above. Upon receiving a Receipt Notice from USCIS, please send an email to *TPSijgrant.vsc@uscis.dhs.gov* with the receipt number and state that you submitted a re-registration and/or request for an EAD based on an IJ/BIA grant of TPS. You can find detailed information on what further information you need to email and the email

addresses on the USCIS TPS Web page at *http://www.uscis.gov/tps.*

E-Filing

If you are re-registering for TPS during the re-registration period and you do not need to submit any supporting documents or evidence, you are eligible to file your applications electronically. For more information on e-filing, please visit the USCIS E-Filing Reference Guide at the USCIS Web site at *http://www.uscis.gov.*

Employment Authorization Document (EAD)

May I request an interim EAD at my local USCIS office?

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at local offices.

Am I eligible to receive an automatic 6-month extension of my current EAD from September 9, 2013 through March 9, 2014?

Provided that you currently have TPS under the El Salvador designation, this notice automatically extends your EAD by 6 months if you:

- Are a national of El Salvador (or an alien having no nationality who last habitually resided in El Salvador);
- Received an EAD under the last extension or re-designation of TPS for El Salvador; and
- Have an EAD with a marked expiration date of September 9, 2013, bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

Although your EAD is automatically extended through March 9, 2014 by this notice, you must re-register timely for TPS in accordance with the procedures described in this notice if you would like to maintain your TPS.

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9). You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I–9Central.* Employers are required to verify the identity and employment authorization of all new employees by using Employment Eligibility Verification (Form I–9). Within 3 days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). An EAD is an acceptable document under ''List A.'' Employers may not reject a document based upon a future expiration date.

If your EAD has an expiration date of September 9, 2013, and states ''A–12'' or ''C–19'' under ''Category'', it has been extended automatically for 6 months by virtue of this **Federal Register** notice, and you may choose to present your EAD to your employer as proof of identity and employment authorization for Employment Eligibility Verification (Form I–9) through March 9, 2014 (see the subsection below titled ''*How do I and my employer complete the Employment Eligibility Verification (Form I–9) (i.e., verification) using an automatically extended EAD for a new job?''* for further information). To minimize confusion over this extension at the time of hire, you may also show your employer a copy of this **Federal Register** notice confirming the automatic extension of employment authorization through March 9, 2014. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, or List B plus List C.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

Even though EADs with an expiration date of September 9, 2013, that state ''A–12'' or ''C–19'' under ''Category'' have been automatically extended for 6 months by virtue of this **Federal Register** notice, your employer will need to ask you about your continued employment authorization once September 9, 2013 is reached in order to meet its responsibilities for Employment Eligibility Verification (Form I–9). However, your employer does not need a new document to reverify your employment authorization until March 9, 2014, the expiration date of the automatic extension. Instead, you and your employer must make corrections to the employment authorization expiration dates in section 1 and section 2 of the Employment Eligibility Verification (Form I–9) (see the subsection below titled ''*What corrections should I and my current employer make to the Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?''* for further information). In addition, you may also show this **Federal Register** notice to your employer to avoid confusion about what to do for the Form I–9.

By March 9, 2014, the expiration date of the automatic extension, your employer must reverify your employment authorization. You must present any document from List A or any document from List C on Employment Eligibility Verification (Form I–9) to reverify employment authorization. Your employer is required to reverify on Employment Eligibility Verification (Form I–9) the employment authorization of current employees no later than the expiration of a TPS-related EAD. Your employer should use either Section 3 of the Form I–9 originally completed for the employee or, if this section has already been completed or if the version of Form I–9 is no longer valid, complete Section 3 of a new Form I–9 using the most current version. Note that your employer may not specify which List A or List C document employees must present.

Can my employer require that I produce any other documentation to prove my status, such as proof of my Salvadoran citizenship?

No. When completing Employment Eligibility Verification (Form I–9), including reverifying employment authorization, employers must accept any documentation that appears on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9) and that reasonably appears to be genuine and that relates to you. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Salvadoran citizenship when completing Employment Eligibility Verification (Form I–9) for new hires or reverifying the employment authorization of current employees. If presented with EADs that are unexpired on their face or that have been automatically extended, employers should accept such EADs as valid List A documents so long as the EADs reasonably appear to be genuine and to relate to the employee. See below for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

What happens after March 9, 2014 for purposes of employment authorization?

After March 9, 2014, employers may no longer accept the EADs that this **Federal Register** notice automatically extended. However, before that time, USCIS will issue new EADs to eligible TPS re-registrants who request them. These new EADs will have an expiration date of March 9, 2015 and can be presented to your employer for completion of Employment Eligibility Verification (Form I–9). Alternatively, you may choose to present any other legally acceptable document or combination of documents listed on the Employment Eligibility Verification (Form I–9).

How do I and my employer complete the Employment Eligibility Verification (Form I–9) (i.e., verification) using an automatically extended EAD for a new job?

When using an automatically extended EAD to fill out the Employment Eligibility Verification (Form I–9) for a new job prior to March 9, 2014, you and your employer should do the following:

(1) For Section 1, you should:

a. Check ''An alien authorized to work'';

b. Write your alien number (USCIS number or A-number) in the first space (your EAD or other document from DHS will have your USCIS number or A-number printed on it; the USCIS Number is the same as your A-number without the A prefix); and

c. Write the automatic extension date (March 9, 2014) in the second space.

(2) For Section 2, employers should record the:

a. Document title;

b. Document number; and

c. Automatically extended EAD expiration date (March 9, 2014).

No later than March 9, 2014, employers must reverify the employee's employment authorization in Section 3 of the Employment Eligibility Verification (Form I–9).

What corrections should my current employer and I make to the Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?

If you are an existing employee who presented a TPS-related EAD that was valid when you first started your job, but that EAD has now been automatically extended, you and your employer should correct your previously completed Employment Eligibility Verification (Form I–9) as follows:

(1) For Section 1, you should:

a. Draw a line through the expiration date in the second space;

b. Write ''March 9, 2014'' above the previous date;

c. Write ''TPS Ext.'' in the margin of Section 1; and

d. Initial and date the correction in the margin of Section 1.

(2) For Section 2, employers should:

a. Draw a line through the expiration date written in Section 2;

b. Write ''March 9, 2014'' above the previous date;

c. Write ''TPS Ext.'' in the margin of Section 2; and

d. Initial and date the correction in the margin of Section 2.

By March 9, 2014, when the automatic extension of EADs expires, employers must reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?

If you are an employer who participates in E-Verify, you will receive a ''Work Authorization Documents Expiring'' case alert when a TPS beneficiary's EAD is about to expire. Usually, this message is an alert to complete Section 3 of the Employment Eligibility Verification (Form I–9) to reverify an employee's employment authorization. For existing employees with TPS-related EADs that have been automatically extended, employers should dismiss this alert by clicking the red ''X'' in the ''dismiss alert'' column and follow the instructions above explaining how to correct the Employment Eligibility Verification (Form I–9). By March 9, 2014, employment authorization must be reverified in Section 3. Employers should never use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call the USCIS Form I–9 Customer Support at 888–464–4218 (TDD for the hearing impaired is at 877–875–6028). For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800–255–8155 (TDD for the hearing impaired is at 800–237–2515), which offers language interpretation in numerous languages.

Note to All Employees

For general questions about the employment eligibility verification process, employees may call the USCIS National Customer Service Center at 800–375–5283 (TDD for the hearing impaired is at 800–767–1833); calls are accepted in English and Spanish. Employees or applicants may also call the OSC Worker Information Hotline at 800–255–7688 (TDD for the hearing impaired is at 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, or for information regarding discrimination related to Employment Eligibility Verification (Form I–9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages. To comply with the law, employers must accept any document or combination of documents acceptable for Employment Eligibility Verification (Form I–9) completion if the documentation reasonably appears to be genuine and to relate to the employee. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify initial mismatch (''tentative nonconfirmation'' or ''TNC'') on employees must promptly inform employees of the mismatch and give such employees an opportunity to challenge the mismatch. Employers are prohibited from taking adverse action against such employees based on the initial mismatch unless and until E-Verify returns a final nonconfirmation. For example, employers must allow employees challenging their mismatches to continue to work without any delay in start date or training and without any change in hours or pay, while the final E-Verify determination remains pending. Additional information about proper nondiscriminatory I–9 and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc* and the USCIS Web site at *http://www.dhs.gov/E-verify*.

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal government agencies must follow the guidelines laid out by the Federal government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your expired EAD that has been automatically extended, or your EAD that has not expired;

(2) A copy of this **Federal Register** notice if your EAD is automatically extended under this notice;

(3) A copy of your Application for Temporary Protected Status Receipt Notice (Form I–797) for this re-registration;

(4) A copy of your past or current Application for Temporary Protected Status Approval Notice (Form I–797), if you received one from USCIS; and/or

(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing ''How to Correct Your Records'' from the menu on the right.

[FR Doc. 2013–12793 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Monochrome Laser Printers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (''CBP'') has issued a final determination concerning the country of origin of certain monochrome laser printers. Based upon the facts presented, CBP has concluded in the final determination that the United States is the country of origin of the monochrome laser printers for purposes of U.S. Government procurement.

DATES: The final determination was issued on May 21, 2013. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Suzanne Kane, Valuation and Special Programs Branch: (202) 325–0119.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 21, 2013, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain monochrome laser printers which may be offered to the U.S. Government under an undesignated procurement contract. This final determination, in HQ H241146, was issued at the request of Ricoh Electronics, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that, based upon the facts presented, the particular monochrome laser printers, assembled in the United States from parts made in China, Japan, and the Philippines, are substantially transformed in the United States, such that the United States is the country of origin of the finished article for purposes of U.S. Government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register.**

Dated: May 22, 2013.

Glen E. Vereb,

Acting Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

HQ H241146

May 21, 2013
OT:RR:CTF:VS H241146 SEK
CATEGORY: Marking

Ms. Fusae Nara
Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway
New York, NY 10036–4039

RE: U.S. Government Procurement; Country of Origin of Ricoh Aficio SP 5200DNG/SP 5210DNG Monochrome Laser Printers

Dear Ms. Nara:

This is in response to your letter, dated March 11, 2013, requesting a final determination on behalf of your client, Ricoh Electronics, Inc. (Ricoh), pursuant to subpart B of Part 177, Customs and Border Protection (CBP) Regulations (19 CFR § 177.21 *et seq.*). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin trade advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government. This final determination concerns the country of origin of certain monochrome laser printers that Ricoh may sell to the U.S. Government. We note that Ricoh is a party-at-interest within the meaning of 19 CFR § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

The products at issue in this ruling are certain monochrome laser printers manufactured by Ricoh, consisting of the Ricoh Aficio SP 5200DNG and SP 5210DNG. Ricoh intends to import the components and subassemblies of the printers from China and the Philippines for manufacture in the U.S. and subsequent sale to U.S. government agencies.

Ricoh states that it developed the SP52000-series printers in Japan, and that the entire engineering, development, design and artwork

processes for the printers took place in Japan. The project team consisted of approximately 40 engineers, who were all based in Japan and worked for Ricoh's parent company, Ricoh Company, Ltd. At the initial stage of the printers production process, individual parts are assembled into various assemblages of parts called subassemblies. The manufacture of subassemblies takes place in multiple countries, including the United States, China, and the Philippines. The subassembly units incorporated in Ricoh's printers include the following:

- Duplex Unit: enables double-sided copying and printing. It is assembled in China.
- Fusing Unit: contains a fusing roller and a pressure roller, which are both manufactured in Korea, and a heater manufactured in Japan. The main task of the Fusing unit is to permanently affix the toner on the paper by applying heat and pressure to the toner powder. The Fusing unit is assembled in China.
- Laser Unit: receives the image from the Scanning unit and copies the image onto the organic photo conductor (OPC) drum. The Laser unit is assembled in China. The two key components of the Laser unit, the laser diode unit and two lenses, are manufactured in Japan.
- All in One Unit (AIO): is assembled in China and contains the toner powder manufactured in Japan using a formula developed by Ricoh Company, Ltd.
- Engine Board (EGB): controls all printer engine functions both directly and through other control boards. It is assembled in China.
- Power Supply Unit (PSU): provides the DC power to the system and AC power to the fusing. It is assembled in China.
- Hard Disk Drive (HDD): is either a standard or optional item depending on the model type of printer. Ricoh purchases HDDs made in the Philippines from another company.
- Operation Panel: acts as the interface between the user and printer and is assembled in China.

Ricoh states that the above subassemblies are assembled in China to construct the incomplete and non-functional printer engine. The incomplete engine includes the duplex unit, fusing unit, laser unit, AIO, EGB, PSU and other paper tray and mechanical parts to move paper throughout the printer. Ricoh asserts that the assembly of the incomplete and non-functional printer engine does not require sophisticated skills or expensive machinery.

The next stage of the production process is the Controller unit subassembly. Ricoh states that in a completed printer, the Controller unit functions as the electronic ''brain'' of the printer and controls its functions. Ricoh states that it has invested significant amounts for R&D in Japan to develop the Controller unit, as well as millions of dollars in Ricoh's factory in Tustin, California for the machinery to manufacture different types of Controller units. Ricoh considers the manufacturing of the Controller unit, including the printed circuit board (PCB) and programming of the firmware (the fixed internal programs that control electronic devices), to be extremely complex, and necessitating highly skilled labor to perform optical inspections, soldering, functional testing and circuit testing.

The Controller unit is manufactured in the United States in three stages. First, Ricoh manufactures the PCB in the United States, including the automatic board stuffing process using surface mount technology (SMT), automated optical inspection (AOI), and manual soldering. Ricoh states that approximately 1,243 components, including integrated circuits, diodes, capacitors, connectors, and other semiconductor devices are mounted on the PCB using both automated and manual soldering processes. Second, Ricoh programs the PCB with firmware that was developed in Japan. Once the installation of the firmware on the PCB is complete, the Controller unit becomes functional as the ''brain'' of the printer. Finally, after the assembly of the PCB and the installation of the firmware, the PCB undergoes testing to ensure the functionality and quality of the PCB.

The final assembly of the printers consists of incorporating the Controller unit and HDD into the incomplete, non-functional printer engines. A control board panel is then attached to the Controller unit and fixed. An HDD controller board is attached to a side of an HDD bracket. An HDD is then mounted on the other side of the HDD bracket and fixed. The assembled HDD is mounted on the controller unit and fixed with controller unit and the control board. An interface panel and a ground plate panel are put together. The assembled part is inserted into the control board panel. The assembled unit is inserted into the rear of the incomplete printer engine and screwed down. The operation panel is connected to the incomplete printer engine by a cable and then attached to the front of the printer engine. The AIO is then installed to the printer engine. The assembled printers will undergo inspection at Ricoh's Tustin, California factory, which is certified as an ISO 14001 factory to conduct the inspection procedure.

ISSUE:

What is the country of origin of the Ricoh Aficio SP 5200DNG/SP 5210DNG monochrome laser printers for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 C.F.R § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers or certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government. Under the rule of origin set forth in 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define ''U.S.-made end product'' as:

. . . an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such

determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of the operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States,* 6 Ct. Int'l Trade 204, 573 F. Supp. 1149 (1983), aff'd, 741 F.2d 1368 (Fed. Cir. 1984). If the manufacturing or combining process is a minor one that leaves the identity of the imported article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United States,* 3 Ct. Int'l Trade 220, 542 F. Supp. 1026 (1982). Assembly operations that are minimal or simple, as opposed to complex or meaningful, generally will not result in a substantial transformation. *See* C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 89–118, C.S.D. 90–51, and C.S.D. 90–97. In *Data General v. United States,* 4 Ct. Int'l Trade 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States (predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. In programming the imported PROMs, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit. The court noted that the programs were designed by a U.S. project engineer with many years of experience in ''designing and building hardware.''

CBP has held in a number of cases involving similar merchandise that complex and meaningful operations involving a large number of components result in a substantial transformation. In support of its position, Ricoh cites HQ H018467 (Jan. 4, 2008). In HQ H018467, CBP considered the country of origin of multi-function printers in which manufacturing took place in two countries. In that case, the following eighteen units were manufactured in the Philippines from components produced in various countries: the automatic document feeder unit, scanner unit, operation panel unit, feed unit, manual paper feed unit, lift up motor unit, subassembly units, automatic document transferring unit, induction heating fuser unit, induction heating power supply unit, transcription unit, developing unit, laser scanning unit, main drive unit, motor drive board, high voltage power supply board, low voltage power supply board, and automatic duplex unit board. The units were sent to Japan where the system control board, engine control board, OPC drum unit, and the toner reservoir were manufactured and incorporated into the units. The control boards were then programmed in Japan with Japanese firmware that controlled the user interface, imaging, memories, and the mechanics of the machines. The machines were then inspected and adjusted as necessary. CBP found that the manufacturing operations in Japan substantially transformed the Philippine units such that Japan was the country of origin of the multifunctional machines. In making our determination we took into consideration the fact that the system control board, the engine control board, and the firmware, which were very important to the functionality of the machines, were manufactured in Japan. We also found that the operations performed in Japan were meaningful and complex and resulted in an article of commerce with a new name, character and use.

Ricoh also cites HQ H185775 (Dec. 21, 2011). In HQ H185775, CBP considered the country of origin of a multifunction office machine. In that case, the incomplete print engine was produced in Vietnam and consisted of a metal frame, plastic skins, motors, controller board with supplier-provided firmware, a laser scanning system, paper trays, cabling paper transport rollers, and miscellaneous sensing and imaging systems. The incomplete print engine was shipped to Mexico, where the following assemblies were added: the formatter board, scanner/automatic document feeder, control panel, fax card, hard disk drive/solid state drive, firmware (which was developed and written in the U.S.), along with other minor components and accessories. The finished products were also tested and prepared for shipping to their ultimate destinations. CBP determined that Mexico was the country of origin because a substantial transformation of the various components occurred in Mexico, and the assembly of the materials from various countries resulted in the final multifunctional office machine product.

In this case, substantial manufacturing operations are performed in both China and Japan. Chinese subassemblies are imported into the United States, where they are combined with U.S.-origin PCBs, and programmed with Japanese-origin firmware. The Controller unit is stated to control the functions and mechanics of the printers along with the Japanese firmware. As the printers are comprised of subassemblies and components from various countries, but are also comprised of a Controller unit assembled in the United States (with U.S.-origin PCBs), which is important to the function of the printers, and the assembly in the United States completes the printers, we find that the last substantial transformation occurs in the United States. *See* HQ H198875, dated June 5, 2012 (CBP found that Singapore was the country of origin of multi-function peripherals assembled to completion in Singapore, where they were also fitted with Singaporean-origin PCBs and programmed with Japanese-origin application software); HQ 563012, dated May 4, 2004 (CBP found that Hong Kong was the country of origin of fabric switches assembled to completion in Hong Kong, where they were also configured and programmed with U.S.-origin software that transformed the switches from non-functional devices into fabric switches capable of performing various Storage Area Network related functions); HQ H170315, scenario III, dated July 28, 2011 (application and transceiver boards for satellite phones were assembled in Malaysia and programmed with U.K.-origin software in Singapore, where the phones were also assembled. CBP found that no one country's operations dominated the manufacturing operations of the phones and that the last substantial transformation occurred in Singapore.) Therefore, the country of origin of the Ricoh Aficio SP 5200DNG/SP 5210DNG monochrome laser printers is the United States.

HOLDING:

The imported components that are used to manufacture the Ricoh Aficio SP 5200DNG/SP 5210DNG monochrome laser printers are substantially transformed as a result of the assembly and firmware installation operations performed in the United States. Therefore, we find that the country of origin of the Ricoh Aficio SP 5200DNG/

SP 5210DNG monochrome laser printers for government procurement purposes is the United States.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,
Glen E. Vereb,

Acting Executive Director, Regulations and Rulings, Office of International Trade.

[FR Doc. 2013–12819 Filed 5–29–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Multifunctional Digital Imaging Systems

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (''CBP'') has issued a final determination concerning the country of origin of certain multifunctional digital imaging systems. Based upon the facts presented, CBP has concluded in the final determination that the United States is the country of origin of the multifunctional digital imaging systems for purposes of U.S. Government procurement.

DATES: The final determination was issued on May 21, 2013. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Suzanne Kane, Valuation and Special Programs Branch: (202) 325–0119.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 21, 2013, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain multifunctional digital imaging systems which may be offered to the U.S. Government under an undesignated procurement contract. This final determination, in HQ H240213, was issued at the request of Ricoh Electronics, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that, based upon the facts presented, the particular multifunctional digital imaging systems, assembled in the United States from parts made in China, Japan, and the Philippines, are substantially transformed in the United States, such that the United States is the country of origin of the finished article for purposes of U.S. Government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: May 21, 2013.

Glen E. Vereb,

Acting Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

HQ H240213

May 21, 2013
OT:RR:CTF:VS H240213 SEK
CATEGORY: Marking

Ms. Fusae Nara
Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway
New York, NY 10036–4039

RE: U.S. Government Procurement; Country of Origin of Ricoh Aficio SP5200SG/5210SFG/5210SRG Multifunctional Digital Imaging Systems

Dear Ms. Nara:

This is in response to your letter, dated March 11, 2013, requesting a final determination on behalf of your client, Ricoh Electronics, Inc. (Ricoh), pursuant to subpart B of Part 177, Customs and Border Protection (CBP) Regulations (19 CFR § 177.21 *et seq.*). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin trade advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government. This final determination concerns the country of origin of certain multifunctional digital imaging systems (MFPs) that Ricoh may sell to the U.S. Government. We note that Ricoh is a party-at-interest within the meaning of 19 CFR § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

The products at issue in this ruling are certain MFPs manufactured by Ricoh, consisting of the Ricoh Aficio SP 5200SG (base model), the SP 5210SFG (incorporating a fax machine), and the SP 5210SRG (incorporating a finisher unit for stacking and stapling). All three MFP models have monochrome copying, printing, and scanning functions, and one model, the SP 5210SFG, has an additional facsimile function. Ricoh intends to import the components and subassemblies of the MFPs from China and the Philippines for manufacture in the U.S. and subsequent sale to U.S. government agencies.

Ricoh states that it developed the SP5200-series MFPs in Japan, and that the entire engineering, development, design and artwork processes for the MFPs took place in Japan. The project team consisted of approximately 50 engineers, who were all based in Japan and worked for Ricoh's parent company, Ricoh Company, Ltd. At the initial stage of the MFP production process, individual parts are assembled into various assemblages of parts called subassemblies. The manufacture of subassemblies takes place in multiple countries, including the United States, China, and the Philippines. The subassembly units incorporated in Ricoh's SP5200-series include the following:

- Automatic Reverse Document Feeder Unit (ARDF unit): the ARDF unit has a 50 sheet capacity, and its main task is to feed paper, sheet by sheet, to the next scanning process. The ARDF unit is assembled in China.
- Scanning Unit: performs the task of converting the original images into digital signals. It is assembled in China.
- Duplex Unit: enables double-sided copying and printing. It is assembled in China.
- Fusing Unit: contains a fusing roller and a pressure roller, which are both manufactured in Korea, and a heater manufactured in Japan. The main task of the Fusing unit is to permanently affix the toner on the paper by applying heat and pressure to the toner powder. The Fusing unit is assembled in China.
- Laser Unit: receives the image from the Scanning unit and copies the image onto the organic photo conductor (OPC) drum. The Laser unit is assembled in China. The two key components of the Laser unit, the laser diode unit and two lenses, are manufactured in Japan.
- All in One Unit (AIO): is assembled in China and contains the toner powder manufactured in Japan using a formula developed by Ricoh Company, Ltd.
- Base Engine and Image Control unit (BICU): controls the mechanical function of the MFP and is, in turn, controlled by the Controller unit. It is assembled in China.

• Power Supply Unit (PSU): provides the DC power to the system and AC power to the fusing. It is assembled in China.

• Fax Unit: is either a standard or optional item depending on the model type of the SP5200-series MFP. It is assembled in China.

• Hard Disk Drive (HDD): is either a standard or optional item depending on the model type of the SP5200-series MFP. Ricoh purchases HDDs made in the Philippines from another company.

• Operation Panel: acts as the interface between the user and MFP and is assembled in China.

Ricoh states that the above subassemblies are assembled in China to construct the incomplete and non-functional printer engine. The incomplete engine includes the automatic document feeder, scanning unit, duplex unit, fusing unit, laser unit, AIO, BICU, PSU and other paper tray and mechanical parts to move paper throughout the MFP. Ricoh asserts that the assembly of the incomplete and non-functional printer engine does not require sophisticated skills or expensive machinery.

The next stage of the production process is the Controller unit subassembly. Ricoh states that in a completed MFP, the Controller unit functions as the electronic ''brain'' of the MFP and controls its functions. Ricoh states that it has invested significant amounts for R&D in Japan to develop the Controller unit, as well as millions of dollars in Ricoh's factory in Tustin, California for the machinery to manufacture different types of Controller units. Ricoh considers the manufacturing of the Controller unit, including the printed circuit board (PCB) and programming of the firmware (the fixed internal programs that control electronic devices), to be extremely complex, and necessitating highly skilled labor to perform optical inspections, soldering, functional testing and circuit testing.

The Controller unit is manufactured in the United States in three stages. First, Ricoh manufactures the PCB in the United States, including the automatic board stuffing process using surface mount technology (SMT), automated optical inspection (AOI), and manual soldering. Ricoh states that approximately 1,335 components, including integrated circuits, diodes, capacitors, connectors, and other semiconductor devices are mounted on the PCB using both automated and manual soldering processes. Second, Ricoh programs the PCB with firmware that was developed in Japan. Once the installation of the firmware on the PCB is complete, the Controller unit becomes functional as the ''brain'' of the MFP. Finally, after the assembly of the PCB and the installation of the firmware, the PCB undergoes testing to ensure the functionality and quality of the PCB.

The final assembly of the MFPs consists of incorporating the Controller unit and HDD into the incomplete, non-functional printer engines. The HDD is mounted on the Controller unit, and the HDD control board is inserted into the socket of the controller unit. The assembled unit is inserted to the rear of the incomplete printer engine. The operation panel is connected to the incomplete printer engine by several cables, and then attached to the front of the printer engine. An AIO is installed to the printer engine, and finally the fax unit is installed to the printer engine. The final MFPs will undergo inspection at Ricoh's Tustin, California factory.

ISSUE:

What is the country of origin of the Ricoh Aficio SP5200SG/5210SFG/5210SRG MFPs for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 C.F.R § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers or certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government. Under the rule of origin set forth in 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define ''U.S.-made end product'' as:

* * *an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of the operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States,* 6 Ct. Int'l Trade 204, 573 F. Supp. 1149 (1983), aff'd, 741 F.2d 1368 (Fed. Cir. 1984). If the manufacturing or combining process is a minor one that leaves the identity of the imported article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United States,* 3 Ct. Int'l Trade 220, 542 F. Supp. 1026 (1982). Assembly operations that are minimal or simple, as opposed to complex or meaningful, generally will not result in a substantial transformation. *See* C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 89–118, C.S.D. 90–51, and C.S.D. 90–97. In *Data General v. United States,* 4 Ct. Int'l Trade 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States (predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. In programming the imported PROMs, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit. The court noted that the programs were designed by a U.S. project engineer with many years of experience in ''designing and building hardware.''

CBP has held in a number of cases involving similar merchandise that complex and meaningful operations involving a large number of components result in a substantial transformation. In support of its position, Ricoh cites HQ H018467 (Jan. 4, 2008). In HQ H018467, CBP considered the country of origin of multi-function printers in which manufacturing took place in two countries. In that case, the following eighteen units were manufactured in the Philippines from components produced in various countries: the automatic document feeder unit, scanner unit, operation panel unit, feed unit, manual paper feed unit, lift up motor unit, subassembly units, automatic document transferring unit, induction heating fuser unit, induction heating power supply unit, transcription unit, developing unit, laser scanning unit, main drive unit, motor drive board, high voltage power supply board, low voltage power supply board, and automatic duplex unit board. The units were sent to Japan where the system control board, engine control board, OPC drum unit, and the toner reservoir were manufactured and incorporated into the units. The control boards were then programmed in Japan with Japanese firmware that controlled the user interface, imaging, memories, and the mechanics of the machines. The machines were then inspected and adjusted as

necessary. CBP found that the manufacturing operations in Japan substantially transformed the Philippine units such that Japan was the country of origin of the multifunctional machines. In making our determination we took into consideration the fact that the system control board, the engine control board, and the firmware, which were very important to the functionality of the machines, were manufactured in Japan. We also found that the operations performed in Japan were meaningful and complex and resulted in an article of commerce with a new name, character and use.

Ricoh also cites HQ H185775 (Dec. 21, 2011). In HQ H185775, CBP considered the country of origin of a multifunction office machine. In that case, the incomplete print engine was produced in Vietnam and consisted of a metal frame, plastic skins, motors, controller board with supplier-provided firmware, a laser scanning system, paper trays, cabling paper transport rollers, and miscellaneous sensing and imaging systems. The incomplete print engine was shipped to Mexico, where the following assemblies were added: the formatter board, scanner/automatic document feeder, control panel, fax card, hard disk drive/solid state drive, firmware (which was developed and written in the U.S.), along with other minor components and accessories. The finished products were also tested and prepared for shipping to their ultimate destinations. CBP determined that Mexico was the country of origin because a substantial transformation of the various components occurred in Mexico, and the assembly of the materials from various countries resulted in the final multifunctional office machine product.

In this case, substantial manufacturing operations are performed in both China and Japan. Chinese subassemblies are imported into the United States, where they are combined with U.S.-origin Controller units containing U.S.-origin PCBs, and programmed with Japanese-origin firmware. The Controller unit is stated to control the functions and mechanics of the MFPs along with the Japanese firmware. The HDD, which is manufactured in a third country, is also installed into the MFPs in the United States. As the MFPs are comprised of subassemblies and components from various countries, but are also comprised of a Controller unit assembled in the United States (with U.S.-origin PCBs), which is important to the function of the MFPs, and the assembly in the United States completes the MFPs, we find that the last substantial transformation occurs in the United States. *See* HQ H198875, dated June 5, 2012 (CBP found that Singapore was the country of origin of MFPs assembled to completion in Singapore, where they were also fitted with Singaporean-origin PCBs and programmed with Japanese-origin application software); HQ 563012, dated May 4, 2004 (CBP found that Hong Kong was the country of origin of fabric switches assembled to completion in Hong Kong, where they were also configured and programmed with U.S.-origin software that transformed the switches from non-functional devices into fabric switches capable of performing various Storage Area Network related functions); HQ H170315, scenario III, dated July 28, 2011 (application and transceiver boards for satellite phones were assembled in Malaysia and programmed with U.K.-origin software in Singapore, where the phones were also assembled. CBP found that no one country's operations dominated the manufacturing operations of the phones and that the last substantial transformation occurred in Singapore.) Therefore, the country of origin of the Ricoh Aficio SP5200SG/5210SFG/5210SRG MFPs is the United States.

HOLDING:

The imported components that are used to manufacture the Ricoh Aficio SP5200SG/5210SFG/5210SRG MFPs are substantially transformed as a result of the assembly and firmware installation operations performed in the United States. Therefore, we find that the country of origin of the Ricoh Aficio SP5200SG/5210SFG/5210SRG MFPs for government procurement purposes is the United States.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Glen E. Vereb,

Acting Executive Director, Regulations and Rulings, Office of International Trade.

[FR Doc. 2013–12816 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request

ACTION: 30-Day notice of information collection for review; File No. 70–009, 287(g) Candidate Questionnaire; OMB Control No. 1653–0047.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), will submit the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. The information collection was previously published in the **Federal Register** on March 27, 2013, Vol. 78 No. 07036 allowing for a 60 day comment period. No comments were received during this period. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions from the public and affected agencies regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

Comments are encouraged and will be accepted for thirty days until July 1, 2013. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* 287(g) Candidate Questionnaire.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* 70–009, U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal governments. This questionnaire is used for the purposes of determining whether or not a state or local law enforcement

officer will be granted Federal immigration enforcement authority under the 287(g) program. This information is used by program managers and trainers in the 287(g) program to make a decision for a potential candidate to be admitted into the program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 75 responses at 25 minutes (0.416 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 31.2 annual burden hours.

Dated: May 24, 2013.

Scott Elmore,

Forms Management, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2013–12789 Filed 5–29–13; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–40]

Notice of Submission of Proposed Information Collection to OMB; Energy and Performance Information Center

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 1, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0274) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov.* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Energy and Performance Information Center.

OMB Approval Number: 2577–0274.

Form Numbers: None.

Description of the need for the information and proposed use: The Department has recognized the need for improving energy efficiency in affordable housing and has prioritized this in Agency Priority Goal # 4, Measure # 13. The Department pioneered its data collection in this area with the American Recovery and Reinvestment Act of 2009 in creating the Recovery Act Management Performance System (''RAMPS''). The data collected through the RAMPS gave the Department a more comprehensive dataset regarding energy efficient improvements than it had ever had previously. The EPIC data system builds upon the successes of the RAMPS and adds data collection for other areas. This form is to revise the collection to include other information. Some of this information is presently collected in paper form and will be collected electronically through the EPIC data system. The EPIC data system will gradually automate the collection of the five year plan and annual statement forms from grantees. These are required forms presently collected in hard copy on Forms 50075.1 and 50075.2 under collection OMB control number 2577–0226. These forms also collect data on the eventual, actual use of funds; this data will be gradually collected electronically through the EPIC data system as well. Electronic collection will enable the Department to aggregate information about the way grantees are using Federal funding. Additionally, PHA grantees will be able to submit Replacement Housing Factor fund plans, the mechanism by which PHAs are allowed to accumulate special funds received based on units removed from the inventory from year to year. This information is presently collected in hard copy at the field office level; the EPIC data system will automate and centralize this collection in order to streamline the process and improve transparency. Furthermore, the EPIC data system will be loaded with Physical Needs Assessment (''PNA'') data. This data being in the system coupled with the electronic planning process will streamline grantee planning. The EPIC data system will collect information about the Energy Performance Contract (''EPC'') process such as energy efficiency improvement financed under an EPC, and construction start and completion date. It will also collect the energy efficiency improvements information on the types previously captured through the RAMPS for Public Housing Capital Fund Recovery grants. As the Department moves to shrink its energy footprint in spite of rising energy costs, clear and comprehensive data on this process will be crucial to its success. Finally, the Department has prioritized in Agency Performance Goal # 2, Measure # 5 making housing more available for more families. In the light of the recent housing crisis, this goal has become simultaneously more challenging and more important. Tracking of the use of Federal funds paid through the Public Housing Capital Fund, the only Federal funding stream dedicated to the capital needs of the nation's last resort housing option, is crucial to understanding how the Department can properly and efficiently assist grantees in meeting this goal as well as assessing the Department's own progress. The EPIC data system will track development of public housing with Federal funds and through other means, including mixed-finance development.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting Burden:	3,150	22.09	....	2.629	183,045

Total Estimated Burden Hours: 183,045.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 22, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–12755 Filed 5–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–41]

Notice of Submission of Proposed Information Collection to OMB; Enterprise Income Verification (EIV) System User Access Authorization Form and Rules of Behavior and User Agreement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 1, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0267) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov.* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Enterprise Income Verification (EIV) System User Access Authorization Form and Rules of Behavior and User Agreement.

OMB Approval Number: 2577–0267.

Form Numbers: HUD–52676 and HUD–52676–I.

Description of the need for the information and proposed use: In accordance with statutory requirements at 5 U.S.C. 552a, as amended (most commonly known as the Federal Privacy Act of 1974), the Department is required to account for all disclosures of information contained in a system of records. Specifically, the Department is required to keep an accurate accounting of the name and address of the person or agency to which the disclosure is made. The Enterprise Income Verification (EIV) System (HUD/PIH–5) is classified as a System of Records, as initially published on July 20, 2005, in the **Federal Register** at page 41780 (70 FR 41780) and amended and published on August 8, 2006, in the **Federal Register** at page 45066 (71 FR 45066). As a condition of granting HUD staff and staff of processing entities with access to the EIV system, each prospective user of the system must (1) request access to the system; (2) agree to comply with HUD's established rules of behavior; and (3) review and signify their understanding of their responsibilities of protecting data protected under the Federal Privacy Act (5 U.S.C. 552a, as amended). As such, the collection of information about the user and the type of system access required by the prospective user is required by HUD to: (1) Identify the user; (2) determine if the prospective user in fact requires access to the EIV system and in what capacity; (3) provide the prospective user with information related to the Rules of Behavior for system usage and the user's responsibilities to safeguard data accessed in the system once access is granted; and (4) obtain the signature of the prospective user to certify the user's understanding of the Rules of Behavior and responsibilities associated with his/her use of the EIV system. HUD collects the following information from each prospective user: Public Housing Agency (PHA) code, organization name, address, prospective user's full name, HUD-assigned user ID, position title, telephone number, facsimile number, type of work which involves the use of the EIV system, type of system action requested, requested access roles to be assigned to prospective user, public housing development numbers to be assigned to prospective PHA user, and prospective user's signature and date of request. The information is collected electronically and manually (for those who are unable to transmit electronically) via a PDFfillable or Word-fillable document, which can be emailed, faxed or mailed to HUD. If this information is not collected, the Department will not be in compliance with the Federal Privacy Act and be subject to civil penalties.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting Burden	13,107	1		0.819	10,736

Total Estimated Burden Hours: 10,736.

Status: Extension without change of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 22, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–12753 Filed 5–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5711–N–01]

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2013

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on January 1, 2013, and ending on March 31, 2013.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW., Room 10282, Washington, DC 20410–0500, telephone 202–708–1793 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the first quarter of calendar year 2013.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from January 1, 2013 through March 31, 2013. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the first quarter of calendar year 2013) before the next report is published (the second quarter of calendar year 2013), HUD will include any additional waivers granted for the first quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: May 23, 2013.

Helen R. Kanovsky,

General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development January 1, 2013 Through March 31, 2013

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 51.104(b)(2).

Project/Activity: The Director of the Illinois State Office of Public Housing requested a waiver of the Environmental Impact Statement (EIS) requirement at 24 CFR 51.104(b)(2) for the Maplewood Courts HOPE VI redevelopment project located in Chicago, IL. The project includes the construction of eight mixed income rental buildings and an additional building with a community and

management space. Excessive noise is the only environmental issue and no noise-sensitive outdoor uses such as patios, picnic areas, balconies, etc. will take place at the site.

Nature of Requirement: The regulation at 24 CFR 51.104(b)(2) requires an EIS prior to the approval of projects with unacceptable noise exposure. Projects in or partially in an unacceptable Noise Zone must be submitted to the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58, for approval. The Assistant Secretary or the Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor noise sensitive activity will take place on the site. In such cases, an environmental review shall be made pursuant to the requirements of 24 CFR parts 50 or 58, as appropriate.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: January 28, 2013.

Reason Waived: The waiver was granted because noise is the only environmental issue, which was the subject of the waiver, and HUD was advised that no outdoor noise sensitive activity would take place on the site. It was determined that the project would further the HUD mission and advance HUD program goals to develop viable, quality communities and affordable housing. Based on the environmental assessments and the HUD field inspection, it was determined that granting the waiver would not result in any unmitigated, adverse environmental impact, would further the purposes of the HOPE VI program, and result in a revitalized community, benefitting all neighborhood residents.

Contact: Nelson A. Rivera, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7248, Washington, DC 20410, telephone 202–708–4225.

• *Regulation:* 24 CFR 58.22(a).

Project/Activity: The Confederated Tribes of Siletz Indians, OR, requested a waiver of 24 CFR 58.22(a) for the acquisition of the Mast Property in Lincoln City, OR. The proposed project was to be used for the construction of affordable housing for tribal members. A waiver was needed because the grantee committed non-HUD funds to acquire the property prior to the approval of the Request for Release of Funds (RROF).

Nature of Requirement: The regulation at 24 CFR 58.22(a) provides that neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, the regulation provides that until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: January 22, 2013.

Reason Waived: The project will further the HUD mission and will advance HUD program goals to develop viable, quality communities and affordable housing; the grantee unknowingly violated the regulation; no HUD funds were committed; and based on the environmental assessments and the HUD field inspection, granting the waiver will not result in any unmitigated, adverse environmental impact.

Contact: Kathryn Au, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7250, Washington, DC 20410, telephone (202) 402–6340.

• *Regulation:* 24 CFR 91.115(c)(2).

Project/Activity: The state of Louisiana requested a waiver of HUD regulation at 24 CFR 91.115(c)(2), that requires a period not less than 30 days, to receive comments on a substantial amendment (of the consolidated plan) before an amendment is implemented. The request was related to Hurricane Isaac, which devastated parts of the state of Louisiana. Parts of Louisiana were declared Federal disaster areas on August 29, 2012.

Nature of Requirement: HUD regulation at 24 CFR 91.115(c)(2) requires a jurisdiction to provide a period of not less than 30 days, to receive comments on the substantial amendment (of the consolidated plan) before the amendment is implemented. The requested waiver covers the State's FY 2010—FY 2014 Consolidated Plan and FY 2012 Action Plan.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: January 31, 2013.

Reason Waived: Pursuant to 24 CFR 5.110 and 24 CFR 91.600, HUD determined that good cause was demonstrated to waive 24 CRFR 91.115(c)(2) in order to allow the State to address the devastation related to Hurricane Isaac in an expedited manner. The comment period was reduced from 30 days to 7 days so as to balance the desire to expedite the disaster recovery process with the need to provide citizens reasonable notice and opportunity to comment on the proposed uses of program funds.

Contact: Steve Rhodeside, Director, State and Small Cities Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7184, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–7375.

• *Regulations:* 24 CFR 91.401 and 24 CFR 92.500(d)(1)(B).

Project/Activity: Jefferson Parish Consortium, LA, requested a waiver of 24 CFR 91.401—Citizen Participation Period (Consortia), which requires that the citizen participation plan provide citizens with reasonable notice and opportunity to comment on substantial amendments to the Consolidated Plan. The Consortium also requested a waiver of Section 218(g) of the HOME Investment Partnerships Act (42 U.S.C. 12748) (HOME) and 24 CFR 92.500(d)(1)(B) which require a participating jurisdiction to commit its annual allocation of HOME funds within 24 months after HUD notifies a participating jurisdiction that HUD has executed the jurisdiction's HOME Investment Partnership Agreement.

Nature of Requirements: The Consortium requested these waivers seeking additional time to facilitate the ongoing recovery in the Jean Lafitte area from the devastation caused by Hurricane Isaac. Jean Lafitte area is located within a declared disaster area pursuant to Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. HUD's regulation at 24 CFR 91.401 was waived to allow the Consortium to amend the public comment period from a period not less than 30 days to 7 days to provide a reasonable opportunity for public comment and to allow the Consortium to quickly reprogram HOME funds. Suspension of Section 218(g) and waiver of 24 CFR 92.500(d)(1)(B) allowed the Consortium to extend the commitment requirement for its Fiscal Year (FY) 2010 HOME allocation to March 31, 2013.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: March 11, 2013.

Reasons Waived: The waivers were granted to permit the Consortium to quickly reprogram funds by shortening the citizen public comment period, to ensure the needed funds would not be deobligated, and so the Consortium could retain the funds to address the needs of the disaster-affected area.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development; 451 7th Street SW., Room 7164, Washington, DC 20410, telephone (202) 708–2684.

• *Regulations:* 24 CFR 91.402(a).

Project/Activity: The Village of Oak Park, IL requested a waiver of 24 CFR 91.402(a) that pertains to the Consolidated Plan Program Year which states that all units of local government that are members of a consortium must have the same program year for the Community Development Block Grant (CDBG), HOME, and Emergency Shelter Grants (ESG) programs.

Nature of Requirements: The Village of Oak Park, a new member of the Cook County HOME Consortium, currently receives CDBG and ESG funding with a program year start date of January 1st. However, the Cook County HOME Consortium has a program start date of October 1st, and immediately aligning the program years would cause an undue hardship, both financially and programmatically for the Village of Oak Park.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: January 11, 2013.

Reasons Waived: The waiver was granted to permit the Village to transition its program year start date to align with the Consortium's

start date over a period of three years. HUD determined that permitting a three-year transition would lessen the programmatic and financial burden that would otherwise occur if the Village was required to immediately align its program year.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development; 451 7th Street SW., Room 7164, Washington, DC 20410, telephone (202) 708–2684.

• *Regulations:* 24 CFR 92.214(a)(6).

Project/Activity: The Hudson County Consortium, NJ, requested a waiver of 24 CFR 92.214(a)(6) which prohibits participating jurisdictions from investing additional HOME funds in a project previously assisted with HOME funds, except during the first year after project completion.

Nature of Requirements: The Consortium used HOME funds to rehabilitate a 70-unit rental project in Union City, New Jersey. Twelve units were damaged by water penetration and remediation attempts were unsuccessful. The Consortium requested a waiver to allow it to provide up to $1.7 million of additional HOME funds to construct a new wall system and repair damaged units.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: January 22, 2013.

Reasons Waived: The waiver was granted to permit the Consortium to invest additional HOME funds to permanently resolve water penetration issues. The HOME period of affordability was extended for an additional ten years, which would assist the Consortium's efforts to provide affordable units in a downtown location.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7164, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.503(b)(3).

Project/Activity The following participating jurisdictions requested a waiver of 24 CFR 92.503(b)(3) that requires funds to be repaid to the account from which they were disbursed. The participating jurisdictions are: State of Nevada, State of Alaska, City of Athens, GA, City of Independence, MO, City of Boulder, CO, and the City of San Mateo, CA.

Nature of Requirements: The participating jurisdictions were obligated to repay ineligible HOME funds to the HOME grant from which they were expended. If all or a portion of the total repayment was repaid to an expired account, the repayment would have been received by HUD but retained by the United States Treasury. As a result, the repaid funds would have no longer been available for the participating jurisdictions' use in eligible affordable housing activities. The National Affordable Housing Act states that such repaid funds shall be immediately available to the grantee for investment in eligible affordable housing activities. In these cases, the regulation makes it impossible to meet this statutory provision. The waivers were granted to permit the participating jurisdictions to repay their local HOME Investment Trust Fund accounts instead of their HOME Investment Trust Treasury accounts.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: January–March, 2013.

Reasons Waived: Waivers were granted to permit the participating jurisdictions to make the repaid funds available for eligible HOME projects.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7164, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 570.505.

Project/Activity: Progress Place is a homeless facility located in Montgomery County, MD that was purchased with CDBG funds. The facility, owned by Montgomery County, provides daily services critical to the safety and well-being of homeless men and women in the Silver Spring area. The County requested a waiver that would permit it to locate these services to another county-owned site without reimbursing the CDBG program for the value of the property.

Nature of Requirement: The regulation at 24 CFR 570.505 provides standards that apply to real property within the CDBG recipient's control that was acquired or improved in whole or in part using CDBG funds in excess of $25,000. The regulation allows the grantee to retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: March 4, 2013.

Reason Waived: The waiver allowed Montgomery County to change the use of the site where the existing Progress Place is located, without reimbursing the CDBG program, and transferring the CDBG program requirements to a new facility to be located on a currently vacant, county-owned site.

Contact: Valerie Browne, Office of Block Grant Assistance, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7282, Washington, DC 20410, telephone (202) 708–1577.

• *Regulation:* Neighborhood Stabilization Program 3 Notice published in the **Federal Register** at 75 FR 64333 (Section II.H.3.F) in accordance with Title XII of Division A under the heading Community Planning and Development: Community Development Fund of the American Recovery and Reinvestment Act of 2009.

Project/Activity: Gary, IN, requested a waiver of the 10 percent demolition cap under the Neighborhood Stabilization Program (NSP) which restricts grantees from spending more than 10 percent of total grant funds on demolition activities.

Nature of Requirement: Section II.H.3.F of the NSP3 Notice provides that a grantee may not use more than ten percent of its grant for demolition activities.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: January 22, 2013.

Reason Waived: The City of Gary, IN, requested a waiver to spend $1,414,357.70 or approximately fifty-three percent of its NSP3 allocation on demolition of blighted structures. The city provided statistical data evidencing high vacancy and abandonment rates due to significant population and job loss. The city explained that there are a high number of properties requiring immediate demolition to remove safety hazards and the destabilizing influence of the blighted properties. With the additional funds to use towards demolition, Gary would target its NSP3 investment in two neighborhoods: the University Park neighborhood, which is well positioned to reflect the stabilizing impact of NSP3 funds, and the Old Sheraton neighborhood, a seemingly sustainable residential development that is undermined and destabilized by small pockets of exceptionally severe blight.

Contact: Jessie Handforth Kome, Deputy Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7286, Washington, DC 20410, telephone (202) 402–5539.

• *Regulation:* Neighborhood Stabilization Program 3 Notice published in the **Federal Register** at 75 FR 64333 (Section II.H.3.F) in accordance with Title XII of Division A under the heading Community Planning and Development: Community Development Fund of the American Recovery and Reinvestment Act of 2009.

Project/Activity: Flint, MI, requested a waiver of the 10 percent demolition cap under the Neighborhood Stabilization Program (NSP) which restricts grantees from spending more than 10 percent of total grant funds on demolition activities.

Nature of Requirement: Section II.H.3.F of the NSP3 Notice provides that a grantee may not use more than ten percent of its grant for demolition activities.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: February 26, 2013.

Reason Waived: The City of Flint, MI requested a waiver to spend $1,999,739.00 or approximately sixty-five percent of its NSP3 allocation on demolition of blighted structures. The city provided statistical data evidencing high vacancy and abandonment rates due to significant population and job loss. The city explained that there are a high number of properties requiring immediate demolition to remove safety hazards and the destabilizing influence of the blighted properties. With the additional funds an estimated 250 residential units within city limits would be demolished, thereby stabilizing entire city blocks.

Contact: Jessie Handforth Kome, Deputy Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7286, Washington, DC 20410, telephone (202) 402–5539.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Garden Terrace West Apartments—FHA Project Number 127–EH004 and Garden Terrace Apartments—FHA Project Number 127–SH016, Wenatchee, Washington. The owner requested to defer repayment of the Flexible Subsidy loans on these projects because of the owner's inability to repay the loan in full or partially upon maturity.

Nature of Requirement: Section 219.220(b) governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996 states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time.''

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: March 11, 2013.

Reason Waived: This waiver was granted in order to allow the owner to refinance both projects which house the elderly and disabled and make major improvements and repairs to the projects. It was determined that these efforts would assure that residents are not displaced and that the project would meet or exceed HUD's standard for providing safe, decent, sanitary and affordable housing for the Wenatchee, Washington community.

Contact: Mark B. Van Kirk, Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6160, Washington, DC 20410, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Ogden Corners Apartments—FHA Project Number 071–55196, Chicago, Illinois. The owner requested a deferral of repayment of the Flexible Subsidy Operating Assistance Loan on this project to allow a longer term to pay off the loan.

Nature of Requirement: Section 219.220(b) governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996 states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time.''

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: March 11, 2013.

Reason Waived: The owner was allowed waiver of the requirement to defer repayment of the Flexible Subsidy Operating Assistance Loan because the owner was unable to pay the loan in full or partially upon maturity. This waiver would allow the owner to amortize the loan and implement a Modernization Plan that would provide updates in units as well as in common areas, repair the roof and façade of the property and preserve the affordability of this much needed housing for an additional 30 years.

Contact: Mark B. Van Kirk, Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6160, Washington, DC 20410, telephone (202) 708–3730.

• *Regulation:* 24 CFR 203.41(c)(2).

Project/Activity: Uplands Development—Project Number 10A04090, Baltimore, Maryland.

Nature of Requirement: Section 203.41(c)(2) provides that legal restrictions on single family conveyances are acceptable only if the restrictions will automatically terminate if title to the mortgaged property is transferred by foreclosure, deed-in-lieu of foreclosure, or if the mortgage is assigned to the Secretary.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: March 25, 2013.

Reason Waived: The property was purchased by the Housing Authority of Baltimore at a foreclosure sale and subsequently conveyed a portion of the property to a developer for the development of single family homeownership units. The waiver would allow those single family units to qualify for FHA mortgage insurance, allows the purchaser to obtain FHA financing and allow the Property Disposition Center's equity participation rider to remain in effect after conveyance of the property to a new owner, preserving the recapture of any surplus in the case of a default. It was determined that granting the waiver would support the Secretary's goal of increasing affordable housing for low-income families and furthers programmatic objectives.

Contact: Mark B. Van Kirk, Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6160, Washington, DC 20410, telephone (202) 708–3730.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Maple View Memory Care (Maple View) is a memory care facility that will serve 36 memory care residents. Maple View is located in Grand Forks, ND.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates that in a board and care home or assisted living facility not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 3, 2013.

Reason Waived: The facility does not meet the requirement, but the memory care residents of Maple View need assistance and supervision, while bathing. It was determined that the arrangement offered by Maple View would be safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Woodlands of Waterville (Waterville) has a license for 32 Alzheimer/Memory Care beds. The project is located in Waterville, ME.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 3, 2013.

Reason Waived: The residents of Waterville need assistance and supervision while bathing. The bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents. It was determined that the arrangement offered by Waterville would be safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Woodlands of Brewer (Brewer) has a license for 32 Alzheimer/Memory Care beds. The project is located in Brewer, ME.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 3, 2013.

Reason Waived: The residents of Brewer need assistance and supervision while bathing. The bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents. It was determined that the arrangement offered by Brewer would be safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Fund I has a license for 78 memory care residents located in 5 separate

buildings. The project is located in Brookfield, Brown Deer and Mequon, WI.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 8, 2013.

Reason Waived: The residents of Fund I need assistance and supervision while bathing. The bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents. It was determined that the arrangement offered by Fund I would be safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Carrollton Autumn Leaves (Carrollton) has a license for 43 Alzheimer/Memory Care residents. The project is located in Carrolton, TX.

Nature of Requirement: The regulation mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 19, 2013.

Reason Waived: The residents of Carrollton need assistance and supervision while bathing. The bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents. It was determined that the arrangement offered by Carrollton would be safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Trinity Senior Community (Trinity) has a license for 48 dementia care residents in three separate identical buildings. The project is located in Madison, WI.

Nature of Requirement: The regulation mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 19, 2013.

Reason Waived: The residents of Trinity need assistance and supervision while bathing. The bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents. It was determined that the arrangement offered by Trinity would be safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Woodlands of Hallowell (Hallowell) has a license for 24 Alzheimer/Memory Care beds. The project is located in Hallowell, ME.

Nature of Requirement: The regulation mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 19, 2013.

Reason Waived: The residents of Hallowell need assistance and supervision while bathing. The bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents. It was determined that the arrangement offered by Hallowell would be safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Meadows Courtyard has a license for 28 assisted living beds. The project is located in Oregon City, OR.

Nature of Requirement: The regulation mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: March 27, 2013.

Reason Waived: The waiver was granted based on Meadows Courtyard's conclusion that the costs to additional bathrooms would affect the marketability of the property. The project is currently 100 percent occupied.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–2419.

• *Regulation:* 24 CFR 266.200(c)(2).

Project/Activity: Minnesota Housing Finance Agency, State of Minnesota.

Nature of Requirement: HUD's regulation at 24 CFR 266.200(c)(2) provides that mortgages refinanced under the Section 542(c) Risk Sharing program may not exceed the sum of the existing indebtedness, cost of refinancing, the cost of repairs, and reasonable transaction costs.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: March 5, 2013.

Reason Waived: Granting the waiver permitted equity take-outs for the refinance of 84 specifically-identified projects with Section 8 Housing Assistance Payments contracts expiring through 2021. This would enable the implementation of a pilot program utilizing the Risk Sharing program to preserve Section 8 projects administered by Minnesota Housing Finance Agency.

Contact: Theodore K. Toon, Director, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410, telephone (202) 402–8386.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Oak Street Senior Apartments, Flint, MI, Project Number: 048–EE018/MI28–S101–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 22, 2013.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.130(b).

Project/Activity: Council Towers VII, Bronx, NY, Project Number: 012–EE379/NY36–S101–003.

Nature of Requirement: Section 891.130(b) prohibits an identity of interest between the sponsor or owner (or borrower, as applicable) and any development team member or between development team members until two years after final closing.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 30, 2013.

Reason Waived: Allowing the contractor to serve as the general contractor for both developments in the condo regime would allow for greater efficiency in the projects construction.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.130(b).

Project/Activity: Elm Street Senior Housing, Cincinnati, OH, Project Number: 046–EE107.

Nature of Requirement: Section 891.130(b) prohibits an identity of interest between the Sponsor or Owner (or borrower, as applicable) and any development team member or between development team members until two years after final closing.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: March 8, 2013.

Reason Waived: Allowing an identity of interest between the owner and the general contractor, where three principals of the general contractor are also members of the ownership entity, would facilitate the investment of private capital in the mixed finance project. A rule change to exempt mixed-financed projects from this regulation is pending publication.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Nativity B.V.M. Place, Philadelphia, PA, Project Number: 034–EE167/PA26–S091–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 6, 2013.

Reason Waived: Additional time was needed to resolve a zoning appeal by a neighbor and for the project to be initially closed.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Fairfield Commons I, Stamford, CT, Project Number: 017–HD042/CT26–Q091–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 19, 2013.

Reason Waived: Additional time was needed for HUD to issue the firm commitment and for the project to achieve an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Jubilee Station, Charleston, WV, Project Number: 045–HD045/WV15–Q091–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 19, 2013.

Reason Waived: Additional time was needed to review and process the firm commitment application and for the project to reach an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Silverwood Casitas, Tucson, AZ, Project Number: 123–EE113/AZ20–S091–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: February 19, 2013.

Reason Waived: Additional time was needed for the Phoenix Office to review and approve the initial closing documents and for the project to be initially closed.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.830(b) and 24 CFR 891.830(c)(4).

Project/Activity: Eagle Creek, Hubbard, OH, Project Number: 042–EE266/OH12–S101–009.

Nature of Requirement: Section 891.830(b) requires that capital advance funds be drawn down only in an approved ratio to other funds, in accordance with a drawdown schedule approved by HUD. Section 891.830(c)(4) requires that capital advance funds not be used for paying off bridge or construction financing, or repaying or collateralizing bonds.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 30, 2013.

Reason Waived: HUD in its response to the public comments in the final rule published on September 23, 2005, stated, ''while HUD generally expects the capital advance funds to be drawn down in a one-to-one ratio for eligible costs actually incurred, HUD may permit on a case-by-case basis, some variance from the drawdown requirements as needed for the success of the project.'' Therefore, the waiver was granted to permit capital advance funds to be drawn down using a different mechanism than a pro rata basis and for other funding sources to be disbursed faster than a pro rata disbursement would provide. A waiver was also granted to permit capital advance funds to be used to collateralize the tax exempt bonds issued to finance the construction of the project and to pay off a portion of the tax-exempt bonds that strictly relate to capital advance eligible costs.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.830(c)(4).

Project/Activity: Council Towers VII, Bronx, NY, Project Number: 012–EE379/NY36–S101–003.

Nature of Requirement: Section 891.830(c)(4) requires that capital advance funds not be used for paying off bridge or construction financing, or repaying or collateralizing bonds.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 22, 2013.

Reason Waived: HUD in its response to the public comments in the final rule published September 23, 2005, stated, ''while HUD generally expects the capital advance funds to be drawn down in a one-to-one ratio for eligible costs actually incurred, HUD may permit on a case-by-case basis, some variance from the drawdown requirements as needed for the success of the project.'' Therefore, the waiver was granted to permit capital advance funds to be used to collateralize the tax exempt bonds issued to finance the construction of the project and to pay off a portion of the tax-exempt bonds that strictly relate to capital advance eligible costs.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Housing Authority of the city of Pottsville, (PA037), Pottsville PA.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than 9 months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: January 18, 2013.

Reason Waived: The HA requested additional time to submit its audited financial information due to unusual circumstances as a result of a computer server that crashed, which was beyond the agency's control. Additional time was needed

in order to reconstruct the General Ledger before the auditors could complete the field work. The HA and the Independent Public Audit had a properly executed engagement letter in place for the FYEs 2011, 2012, and 2013. The additional 30 days permitted the HA to complete the audited financial submission. The HA was required to submit its FYE March 31, 2012, audited financial information to REAC no later than January 30, 2013. However, the PHAS audited submission due date waiver did not apply to Circular A–133 submissions to the Federal Audit Clearinghouse.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 905.10(i)(5).

Project/Activity: San Francisco Housing Authority, Replacement Housing Factor (RHF) Grants, CA39R00150210, CA39R00150211, CA39R00150212, CA39R00150213.

Nature of Requirement: HUD's regulation at 24 CFR 905.10(i)(5) requires that ''a PHA must leverage significant funds as a precondition for receiving Second Increment.''

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: January 7, 2013.

Reason Waived: San Francisco Housing Authority (SFHA) sought a waiver of the regulation advising that it would use the RHF funds to renovate vacant units in order to increase the occupancy at the housing authority. SFHA stated that there is a large unmet need for low-income public housing in the Bay Area, and with the use of these RHF grants, SFHA would be able to address this need at a lower cost than the development of new public housing units. For this reason the waiver was granted.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4130, Washington, DC 20140, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.606(n)(1)(ii)(B).

Project/Activity: Venice Housing Authority/Venetian Walk a 61-unit senior development.

Nature of Requirement: HUD's regulation at requires 24 CFR 941.606(n)(1)(ii)(B) that ''if the partner and/or owner entity (or any other entity with and identity of interest with such parties) wants to serve as the general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids.''

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 12, 2012.

Reason Waived: Venice Housing Authority (VHA) submitted an independent cost estimate.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4130, Washington, DC 20140, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.606(n)(1)(ii)(B).

Project/Activity: Miami Dade Public Housing and Community Development/Dante Fascell Preservation Project.

Nature of Requirement: HUD's regulation at requires 24 CFR 941.606(n)(1)(ii)(B) that ''if the partner and/or owner entity (or any other entity with and identity of interest with such parties) wants to serve as the general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids.''

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 20, 2012.

Reason Waived: Miami Dade Public Housing and Community Development submitted an independent cost estimate.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4130, Washington, DC 20140, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.606(n)(1)(ii)(B).

Project/Activity: Miami Dade Public Housing and Community Development/Joe Moretti Phase One Project.

Nature of Requirement: HUD's regulation at requires 24 CFR 941.606(n)(1)(ii)(B) that ''if the partner and/or owner entity (or any other entity with and identity of interest with such parties) wants to serve as the general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids.''

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: January 16, 2013.

Reason Waived: Miami Dade Public Housing and Community Development submitted an independent cost estimate.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4130, Washington, DC 20140, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.606(n)(1)(ii)(B).

Project/Activity: San Juan Housing Authority/San Juan III Apartments.

Nature of Requirement: HUD's regulation at requires 24 CFR 941.606(n)(1)(ii)(B) that ''if the partner and/or owner entity (or any other entity with and identity of interest with such parties) wants to serve as the general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids.''

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: February 26, 2013.

Reason Waived: Venice Housing Authority (VHA) submitted an independent cost estimate.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20140, Room 4130, telephone (202) 402–4181.

• *Regulation:* 24 CFR 982.305(c)(4).

Project/Activity: Southern Nevada Regional Housing Authority (SNRHA), Las Vegas, NV.

Nature of Requirement: HUD's regulation at 24 CFR 982.305(c)(4) states that any housing assistance payments contract executed after 60 calendar days from the beginning of the lease term is void and the public housing agency may not pay any payments to the owner.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: March 21, 2013.

Reason Waived: The previous director released payments without executing the applicable contracts. This waiver was approved to ensure continued assistance for affected families.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.503(c), 982.503(c)(4)(ii) and 982.503(c)(5).

Project/Activity: Bradford County Housing Authority (BCHA), Bradford County, PA.

Nature of Requirement: HUD's regulation at 24 CFR 982.503(c) establishes the methodology for establishing exception payment standards for an area. HUD's regulation at 24 CFR 503(c)(4)(ii) states that HUD will only approve an exception payment standard amount after six months from the date of HUD approval of an exception payment standard amount above 110 percent to 120 percent of the published fair market rent (FMR). HUD's regulation at 24 CFR 982.503(c)(5) states that the total population of a HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: January 3, 2013.

Reason Waived: These waivers were granted because of a shock to the rental housing market in the BCHA FMR area caused by increased economic activity due to the shale gas industry.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.503(c), 982.503(c)(4)(ii) and 982.503(c)(5).

Project/Activity: Tioga County Housing Authority (BCHA), Tioga County, PA.

Nature of Requirement: HUD's regulation at 24 CFR 982.503(c) establishes the methodology for establishing exception payment standards for an area. HUD's regulation at 24 CFR 503(c)(4)(ii) states that HUD will only approve an exception payment standard amount after six months from the date of HUD approval of an exception payment standard amount above 110 percent to 120 percent of the published fair market rent (FMR). HUD's regulation at 24 CFR 982.503(c)(5) states that the total population of a HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: January 3, 2013.

Reason Waived: These waivers were granted because of a shock to the rental housing market in the TCHA FMR area caused by increased economic activity due to the shale gas industry.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.503(c), 982.503(c)(4)(ii) and 982.503(c)(5).

Project/Activity: Union County Housing Authority (UCHA), Union County, PA.

Nature of Requirement: HUD's regulation at 24 CFR 982.503(c) establishes the methodology for establishing exception payment standards for an area. HUD's regulation at 24 CFR 503(c)(4)(ii) states that HUD will only approve an exception payment standard amount after six months from the date of HUD approval of an exception payment standard amount above 110 percent to 120 percent of the published fair market rent (FMR). HUD's regulation at 24 CFR 982.503(c)(5) states that the total population of a HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: March 4, 2013.

Reason Waived: These waivers were granted because of a shock to the rental housing market in the UCHA FMR area caused by increased economic activity due to natural resource exploration.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Opelika Housing Authority (OHA), Opelika, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) states that, if the amount on the payment standard schedule is decreased during the term of the housing assistance payments (HAP) contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning on the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: March 5, 2013.

Reason Waived: This waiver was granted because this cost-saving measure would enable the OHA to manage its Housing Choice Voucher program within allocated budget authority and avoid the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: San Francisco Housing Authority (SFHA), San Francisco, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: February 27, 2013.

Reason Waived: Twenty-four homeless veterans required an exception payment standard to move to a unit in a building that met their health needs. To provide this reasonable accommodation so these clients could be assisted in this building and pay no more than 40 percent of their adjusted income toward the family share, the SFHA was allowed to approve exception payment standards that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Berkeley Housing Authority (BHA), Berkeley, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: March 5, 2013.

Reason Waived: The participant, who is disabled, required an exception payment standard to move to a wheelchair-accessible unit. To provide this reasonable accommodation so the client could move to an accessible unit and pay no more than 40 percent of her adjusted income toward the family share, the BHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.253(b) and 983.259(a)(1) and (2) and (c).

Project/Activity: Michigan State Housing Development Authority (MSHDA), MI.

Nature of Requirement: HUD's regulation at 24 CFR 983.253(b) states that the project-based voucher (PBV) contract unit leased to each family must be appropriate for the size of the family under the public housing agency's subsidy standards. HUD's regulation at 24 CFR 983.259(a)(1) and (2) and (c) state that if the PHA determines that the family is occupying a wrong-sized unit, the PHA must promptly notify the family and the owner of this determination. After an offer of comparable rental assistance, the PHA must terminate the housing assistance payments for the wrong-sized unit.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: January 16, 2013.

Reason Waived: These waivers were related to the Rental Assistance Demonstration (RAD) program. They were approved because requiring families to move from their units pursuant to the conversion would present a significant hardship.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

[FR Doc. 2013–12752 Filed 5–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Colorado

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plats listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plats will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plats described in this notice will happen on July 1, 2013.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat and field notes of the dependent resurvey and subdivision of certain sections in Township 47 North, Range 3 West, New Mexico Principal Meridian, Colorado, were accepted April 9, 2013.

The plat and field notes of the dependent resurvey and subdivision of sections 24 and 36 in Township 47 North, Range 4 West, New Mexico Principal Meridian, Colorado, were accepted on April 9, 2013.

The plat and field notes of the dependent resurvey and metes-and-bounds survey of Tract 37 in unsurveyed Township 4 North, Range 79 West, Sixth Principal Meridian, Colorado, were accepted on April 19, 2013.

The plat and field notes of the dependent resurvey of Mineral Survey No. 588, Malter Place, in Township 43 North, Range 4 West, New Mexico Principal Meridian, were accepted on May 7, 2013.

The plat and field notes of the dependent resurvey of Mineral Survey No. 622, Red Cloud Lode, in Township 43 North, Range 4 West, New Mexico Principal Meridian, were accepted on May 7, 2013.

The plat and field notes of the dependent resurvey and survey in Township 13 South, Range 92 West, Sixth Principal Meridian, Colorado, were accepted on May 16, 2013.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2013–12837 Filed 5–29–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L14200000–BJ0000]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on July 1, 2013.

DATES: Protests of the survey must be filed before July 1, 2013 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin_Montoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Land Management, Butte Field Office, and was necessary to determine federal interest lands. The lands we surveyed are:

Principal Meridian, Montana

T. 12 N., R. 6 W.

The plat, in one sheet, representing the dependent resurvey of portions of Mineral Survey Nos. 631, 870, and 1089 B, and the survey of a certain lot within section 36, Township 12 North, Range 6 West, Principal Meridian, Montana, was accepted May 16, 2013.

We will place a copy of the plat, in one sheet, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in one sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in one sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2013–12834 Filed 5–29–13; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDT000000.L11200000.DD0000.241A.00]

Notice of Public Meetings, Twin Falls District Resource Advisory Council, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA), the Federal Advisory Committee Act of 1972 (FACA, the U.S. Department of the Interior, Bureau of Land Management (BLM) Twin Falls District Resource Advisory Council (RAC) will meet as indicated below.

DATES: On June 20, 2013, the Twin Falls District RAC members will meet at the Burley Field Office, 15 East, 200 South, Burley, Idaho. The meeting will begin at 9:00 a.m. and end no later than 6:00 p.m. The public comment period for the RAC meeting will take place 9:10 a.m. to 9:40 a.m. Following a short meeting, RAC members will take a field tour of projects within the Burley Field Office

FOR FURTHER INFORMATION CONTACT: Heather Tiel-Nelson, Twin Falls District, Idaho, 2536 Kimberly Road, Twin Falls, Idaho, 83301, (208) 736–2352.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho. During the field tour, RAC members will visit the Milner Historic Recreation Area to learn more about the proposed improvements to the property, and areas of the South Hills that were rehabilitated following the Cave Canyon Fire of 2012. Additional topics may be added and will be included in local media announcements. More information is available at *http://www.blm.gov/id/st/en/get_involved/resource_advisory.html* RAC meetings are open to the public. For further information about the meeting, please contact Heather Tiel-Nelson, Public

Affairs Specialist for the Twin Falls District BLM at (208) 736–2352.

Dated: May 20, 2013.

Mel M. Meier,

District Manager.

[FR Doc. 2013–12835 Filed 5–29–13; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–IMR–ROMO–11943; PPIMROMO60 PAN00AN53.NM0000]

Grand Ditch Breach Restoration, Final Environmental Impact Statement, Rocky Mountain National Park, Colorado

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement for the Grand Ditch Breach Restoration, Rocky Mountain National Park.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service announces the availability of a Final Environmental Impact Statement for the Grand Ditch Breach Restoration, Rocky Mountain National Park, Colorado.

DATES: The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of the Notice of Availability of the Final Environmental Impact Statement.

ADDRESSES: Information will be available for public inspection online at *http://parkplanning.nps.gov/romo,* in the office of the Superintendent, Vaughn Baker, 1000 US Highway 36, Estes Park, CO 80517–8397, 970–586–1200 and at the Public Information Office, Rocky Mountain National Park, 1000 US Highway 36, Estes Park, Colorado 80517–8397.

FOR FURTHER INFORMATION CONTACT: Public Information Office, Rocky Mountain National Park, 1000 US Highway 36, Estes Park, Colorado 80517–8397, (970) 586–1206.

SUPPLEMENTARY INFORMATION: The document describes five management alternatives including a no-action alternative and the National Park Service preferred alternative. The anticipated environmental impacts of those alternatives are analyzed. The final document also includes responses to substantive comments from the public, cooperating agencies, and government agencies. The no-action alternative, alternative A, would extend existing conditions and management trends into the future. This alternative serves as a basis of comparison for evaluating the action alternatives. Minimal restoration, alternative B, would emphasize less intensive management activity to restore portions of the impacted area. This alternative would focus actions on areas that are unstable and present a high potential of continued degradation of ecosystem resources and services. High restoration, alternative C, would involve more intensive management actions over large portions of the impacted area. This alternative would focus actions on unstable areas that present a high to moderate potential of continued degradation of existing ecosystem resources and services. The preferred alternative, alternative D, would emphasize the removal of large debris deposits in the alluvial fan area and in the Lulu City wetland. Actions would be conducted to stabilize limited areas of unstable slopes and banks throughout the upper portions of the restoration area. Hydrology through the Lulu City wetland would be restored in the historical central channel through removal of large deposits of debris, relying on the historical channel to transport river flow. Small-scale motorized equipment would be employed for stabilization and revegetation activities, while larger equipment would be employed for excavation of large debris deposits and reconfiguration of the Colorado River through the Lulu City wetland. This alternative would include stabilization of zone 1A under the preferred option, option 1. Maximum restoration, alternative E, would involve extensive management activity and use of motorized equipment over large portions of the impacted area to restore the damage.

Dated: December 20, 2012.

John Wessels,

Director, Intermountain Region, National Park Service.

[FR Doc. 2013–12848 Filed 5–29–13; 8:45 am]

BILLING CODE 4312–CB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–13048; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 4, 2013. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 14, 2013. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 13, 2013.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ALASKA

Lake and Peninsula Borough-Census Area
LIBBY'S NO. 23 (bristol bay double ender), 1 Park Pl., Port Alsworth, 13000379

MINNESOTA

St. Louis County

Duluth and Iron Range Railroad Company Passenger Station, 404 Pine St., Tower, 13000380

MISSOURI

Jackson County

Pratt and Whitney Plant Complex, 1500 & 2000 E. Bannister Rd., Kansas City, 13000381

NEW HAMPSHIRE

Grafton County

Rockywold—Deephaven Camps (Squam MPS), Pinehurst Rd., Holderness, 13000382

Hillsborough County

Hillsborough Mills, 37 Wilton Rd., Milford, 13000383

Merrimack County

Bradford Center Meetinghouse, 18 Rowe Mountain Rd., Bradford, 13000384

NEW JERSEY

Cape May County

Ocean City, N.J. Life-Saving Station, 801 4th St., Ocean City, 13000385

Union County

Scotch Plains Baptist Church, Parsonage and Cemetery, 333–334 Park Ave., Scotch Plains, 13000386

OHIO

Cuyahoga County

Chagrin Falls East Side Historic District, E. Washington & Philomethian Sts., Chagrin Falls, 13000387

Fairview Community Park Historic District, 21077 N. Park Dr., Fairview Park, 13000388

Mayfield Theatre Building, The, 12300 Mayfield Rd., Cleveland, 13000389

Templin—Bradley Company, 5700 Detroit Ave., Cleveland, 13000390

OKLAHOMA

Canadian County

McGranahan Portion of the Chisholm Trail Roadbed, Address Restricted, Yukon, 13000391

Oklahoma County

Mager Mortgage Company Building, 231 NW. 10th St., Oklahoma City, 13000392

Pittsburg County

International Temple, Supreme Assembly, Order of the Rainbow for Girls, 315 E. Carl Albert Pkwy., McAlester, 13000393

Texas County

Danholt, 1208 N. May, Guymon, 13000394

Woods County

Hotel Bell, 505 Barnes, Alva, 13000395

OREGON

Marion County

Moser, Joseph Henry, Barn, 507 S. 3rd St., Silverton, 13000396

Soderberg, Peter and Bertha, House, (Silverton, Oregon, and Its Environs MPS), 1106 Pine St., Silverton, 13000397

SOUTH CAROLINA

Richland County

Owen Building, 1321 Lady St., Columbia, 13000398

TENNESSEE

Davidson County

American Baptist Theological Seminary Historic District, 1800 Baptist World Center Dr., Nashville, 13000399

Shelby County

Rosemark Historic District, 8501–8760 Kerrville-Rosemark Rd.; 8519–8727, 8736 Rosemark Rd., Rosemark, 13000400

Sumner County

Hawthorne Hill, 195 Old TN 25E., Castalian Springs, 13000401

VIRGINIA

Bath County

Garth Newel, 447 Garth Newel Ln., Hot Springs, 13000402

WISCONSIN

Jefferson County

Richards Hill Residential Historic District, Roughly bounded by Western, Richards, Thomas & Harvey Aves.; Livsey Pl. & Charles St., Watertown, 13000403

[FR Doc. 2013–12767 Filed 5–29–13; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SERO–BLRI–12544; PPSESEROC3; PPMPSAS1Y.YP0000]

Record of Decision for the General Management Plan, Blue Ridge Parkway, Virginia and North Carolina

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) announces the availability of the Record of Decision (ROD) for the General Management Plan (GMP) for Blue Ridge Parkway (parkway). On April 13, 2013, the Regional Director, Southeast Region, approved the ROD for the project.

FOR FURTHER INFORMATION CONTACT: Superintendent Phil Francis, Blue Ridge Parkway, 199 Hemphill Knob Road, Asheville, NC 28803; telephone (828) 271–4779.

SUPPLEMENTARY INFORMATION: The NPS evaluated three alternatives for managing use and development of the parkway in the GMP/FEIS, Alternative A—no action Alternative, and two action Alternatives. The preferred alternative (Alternative B) from the FEIS/GMP is the alternative selected for implementation. Alternative B emphasizes the original parkway design and traditional driving experience, while enhancing outdoor recreation opportunities and regional natural resource connectivity, and providing modest improvements to visitor services. To support that experience, many of the parkway's recreation areas will provide enhanced opportunities for dispersed outdoor recreation activities. This action will proactively blend newer law and policy requirements and operational constraints with the traditional parkway concept developed from 1935 to 1955. As a result, the selected action will provide a better balance between traditional parkway experiences and modern-day management realities. Under Alternative C, parkway management would be more integrated with the region's resources and economy, while enhancing parkway visitor services.

The selected action will provide a comprehensive parkway-wide approach to resource and visitor use management. Specific management zones detailing acceptable resource conditions, visitor experience, use levels, appropriate activities and development will be applied to parkway lands (parkway segments and recreation areas) consistent with this concept. The selected action will also seek to enhance resource protection, regional natural resource connectivity, and build stronger connections with adjacent communities. The GMP will guide the management of the parkway over the next 20+ years.

The responsible official for this FEIS/GMP is the Regional Director, NPS Southeast Region, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: May 14, 2013.

Gordon Wissinger,

Acting Regional Director, Southeast Region.

[FR Doc. 2013–12759 Filed 5–29–13; 8:45 am]

BILLING CODE 4310–JD–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 337–TA–867/861]

Certain Cases for Portable Electronic Devices; Determination Not To Review an Initial Determination Granting in Part Complainant's Motion for Leave To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law

judge's (''ALJ'') initial determination (''ID'') (Order No. 9) granting in part complainant's motion for leave to amend the complaint and notice of investigation as to removing respondent Jie Sheng Technology of Tainan City, Taiwan (''Jie Sheng Taiwan'') from the investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3042. 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 Inv. No. 337–TA–861 on November 16, 2012, based on a complaint filed by Speculative Product Design, LLC of Mountain View, California (''Speck''). 77 FR 68828 (Nov. 16, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930 (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 cases for portable electronic devices by reason of infringement of various claims of United States Patent No. 8,204,561 (''the '561 patent''). The complaint named several respondents.

The Commission instituted Inv. No. 337–TA–867 on January 31, 2013, based on a complaint filed by Speck. 78 FR 6834 (Jan. 31, 2013). That complaint also alleged violations of section 337 of the Tariff Act of 1930 (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 cases for portable electronic devices by reason of infringement of various claims of the '561 patent. The complaint named several respondents. On January 31, 2013, the Commission consolidated the two investigations. *Id.*

On April 4, 2013, Speck moved for leave to amend the complaint and notice of investigation to remove respondent Jie Sheng Taiwan from the investigation and add as respondent Jie Sheng Technology of Shenzhen City, China. On April 15, 2013, the Commission investigative attorney filed a response in support of the motion. No other responses to the motion were filed.

On April 30, 2013, the ALJ issued the subject ID, granting the motion in part as to removing respondent Jie Sheng Taiwan from the investigation. The ALJ found that, pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)), good cause exists to amend the complaint and notice of investigation. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID.

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 section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: May 23, 2013.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–12718 Filed 5–29–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States, et al. v. Cinemark Holdings, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America et al.* v. *Cinemark Holdings, Inc., et al.,* Civil Action No. 1:13–cv–727. On May 20, 2013, the United States filed a Complaint alleging that the proposed acquisition by Cinemark Holdings, Inc. of movie theatres and related assets from Rave Cinemas, LLC would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed the same time as the Complaint, requires Cinemark Holdings, Inc. to divest certain theatre assets and requires Alder Wood Partners, L.P., which is controlled by Cinemark's Chairman, to divest Movie Tavern, Inc.

Copies of the Complaint, proposed Final Judgment, Hold Separate Stipulation and Order and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.justice.gov/atr,* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments and responses thereto will be filed with the Court and posted on the U.S. Department of Justice, Antitrust Division's Web site, and, under certain circumstances published in the **Federal Register.** Comments should be directed to John R. Read, Chief, Litigation III Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 4000, Washington, DC 20530 (telephone: 202–307–0468).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, Antitrust Division, 450 Fifth Street NW., Suite 4000, Washington, DC 20530, and *State of Texas, Office of the Attorney General, State of Texas, 300 W. 15th Street, 7th Floor, Austin, TX 78701, Plaintiffs,* v. *Cinemark Holdings, Inc., 3900 Dallas Parkway, Suite 500, Plano, TX 75093, Rave Holdings, LLC, 2101 Cedar Springs Road, Suite 800, Dallas, TX 75201,* and *Alder Wood Partners, L.P., 12400 Coit Road, Suite 800, Dallas, TX 75251, Defendants.*

Civil Action No.: 1:13–cv–00727.
Judge: Beryl A. Howell.
Filed: 05/20/2013.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, and the State of Texas, acting through its Attorney General, bring this civil antitrust action to prevent the proposed acquisition by Cinemark Holdings, Inc. (''Cinemark'') of thirty-two movie theatres owned and operated by Rave Holdings, LLC (''Rave Cinemas'').

Cinemark is a significant competitor to Rave Cinemas in the exhibition of first-run, commercial movies in the area in and around Voorhees and Somerdale

in southern New Jersey, the eastern sector of Louisville, Kentucky, and the area in and around Denton, Texas. Another movie theatre company, Movie Tavern, Inc. (''Movie Tavern''), which is controlled by Cinemark's founder and Chairman of the Board and majority owned by Defendant Alder Wood Partners, L.P. (''Alder Wood Partners''), is a significant competitor with Rave Cinemas in the exhibition of first-run, commercial movies in the western portion of Fort Worth, Texas. If Cinemark's acquisition of Rave Cinemas is permitted to proceed, in these markets, it would either give Cinemark direct control of its most significant competitor or leave theatres controlled by Cinemark's Chairman as the most significant competitor to the Cinemark-acquired theatre. The acquisition likely would substantially lessen competition in the exhibition of first-run, commercial movies in each of these markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

I. Jurisdiction and Venue

1. This action is filed by the United States pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to obtain equitable relief and to prevent a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. The State of Texas brings this action under Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent the defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

2. The distribution and theatrical exhibition of first-run, commercial films is a commercial activity that substantially affects, and is in the flow of, interstate trade and commerce. Defendants' activities in purchasing equipment, services, and supplies as well as licensing films for exhibition substantially affect interstate commerce. The Court has jurisdiction over the subject matter of this action and jurisdiction over the parties pursuant to 15 U.S.C. 22, 25, and 26, and 28 U.S.C. 1331, 1337(a), and 1345.

3. Venue in this District is proper under 28 U.S.C. 1391(c). Defendants have consented to venue and personal jurisdiction in this judicial district.

II. Defendants and the Proposed Acquisition

4. Defendant Rave Holdings, Inc. (''Rave Cinemas'') is a Delaware limited liability company with its headquarters in Dallas, Texas. Rave Cinemas owns and operates 35 movie theatres with 518 screens in a dozen states. Rave Cinemas is the seventh-largest movie theatre exhibitor in the United States based on box office revenues.

5. Defendant Cinemark Holdings, Inc. (''Cinemark'') is a Delaware corporation with its headquarters in Plano, Texas. Cinemark owns and operates 298 movie theatres with a total of 3,916 screens in thirty-nine states. Cinemark is the third-largest movie theatre exhibitor in the United States based on box office revenues. Lee Roy Mitchell is the founder, a significant shareholder, and Chairman of the Board of Directors of Cinemark.

6. Defendant Alder Wood Partners, L.P. (''Alder Wood Partners'') is a Texas limited partnership with its headquarters in Dallas, Texas. Alder Wood Partners owns 100% of the voting shares of Movie Tavern, Inc. (''Movie Tavern''). Mr. Lee Roy Mitchell and his wife own 99% of Alder Wood Partners. Through Alder Wood Partners, they control Movie Tavern and receive approximately 92% of its profits. The other approximately 8% of Movie Tavern's profits are reserved for the benefit of its management. Movie Tavern is a Texas corporation with its headquarters in Dallas, Texas. In addition to serving as Cinemark's Chairman, Mr. Mitchell serves as a Director of Movie Tavern. Movie Tavern owns and operates 16 movie theatres, with a total of 130 screens in seven states.

7. Cinemark and Movie Tavern are not independent competitors. Mr. Mitchell, as Cinemark's founder and Chairman of the Board, has influence over Cinemark's pricing and other strategic decisions, as well as access to competitively-sensitive information. He also has a significant holding of Cinemark shares. At the same time, Mr. Mitchell, as a Director of Movie Tavern who together with his wife owns nearly all of the voting shares and profits of Movie Tavern, has influence over Movie Tavern's pricing and other strategic decisions. Thus, Mr. Mitchell has an ability and financial incentive to encourage, facilitate, and enforce coordination between the companies. Because of Mr. Mitchell's substantial influence over pricing and strategic decisions at the two companies, Cinemark and Movie Tavern are unlikely to compete aggressively with each other. For example, were Cinemark to determine that it is in its unilateral interest to build a new theatre close to a Movie Tavern, Mr. Mitchell would be in a position to undermine that effort. Similarly, were Movie Tavern to consider an aggressive price cut to the detriment of Cinemark, Mr. Mitchell would be in a position to undermine that effort.

8. On November 16, 2012, Cinemark and Rave Cinemas executed a purchase and sale agreement. The acquisition is structured as an asset purchase for approximately $220 million. Cinemark will acquire thirty-two of Rave Cinemas' thirty-five movie theatres and will manage the three theatres it is not acquiring until Rave Cinemas has sold them.

III. Background of the Movie Theatre Industry

9. Viewing movies in the theatre is a popular pastime. Over one billion movie tickets were sold in the United States in 2012, with total box office revenue reaching approximately $9.7 billion.

10. Companies that operate movie theatres are called ''exhibitors.'' Some exhibitors own a single theatre, whereas others own a circuit of theatres within one or more regions of the United States. Cinemark, Rave Cinemas, and Movie Tavern are exhibitors in the United States, as are Regal Entertainment Group (''Regal'') and AMC Entertainment, Inc. (''AMC'').

11. Exhibitors set ticket prices for a theatre based on a number of factors, including the age and condition of the theatre, the number and type of amenities the theatre offers (such as the range of snacks, food and beverages offered, the size of its screens and quality of its sound systems, and stadium and/or reserved seating), the competitive situation facing the theatre (such as the price of tickets at nearby theatres, the age and condition of those theatres, and the number and type of amenities they offer), and the population demographics and density surrounding the theatre.

IV. Relevant Market

A. Product Market

12. Movies are a unique form of entertainment. The experience of viewing a movie in a theatre is an inherently different experience from live entertainment (*e.g.,* a stage production or attending a sporting event) or viewing a movie in the home (*e.g.,* through streaming video, on a DVD, or via pay-per-view).

13. Reflecting the significant differences of viewing a movie in a theatre, ticket prices for movies are generally very different from prices for other forms of entertainment. For example, live entertainment is typically significantly more expensive than a movie ticket, whereas home viewing through streaming video, DVD rental, or pay-per-view is usually significantly less expensive than viewing a movie in a theatre.

14. Viewing a movie at home typically lacks several characteristics of viewing

a movie in a theatre, including the size of screen, the sophistication of sound systems, and the social experience of viewing a movie with other patrons. In addition, the most popular, newly released or ''first-run'' movies are not available for home viewing at the time they come out in theatres.

15. Movies are considered to be in their ''first-run'' during the four to five weeks following initial release in a given locality. If successful, a movie may be exhibited at other theatres after the first-run as part of a second or subsequent run (often called a ''sub-run'' or ''second-run''). Moviegoers generally do not regard sub-run movies as an adequate substitute for first-run movies. Reflecting the significant difference between viewing a newly-released, first-run movie and an older sub-run movie, tickets at theatres exhibiting first-run movies usually cost significantly more than tickets at sub-run theatres.

16. Art movies and foreign language movies are also not adequate substitutes for commercial, first-run movies. Art movies, which include documentaries, are sometimes referred to as independent films. Although art and foreign language movies appeal to some viewers of commercial movies, the potential audience for art movies is quite distinct as art movies tend to have more narrow appeal and typically attract an older audience. Exhibitors consider art theatre operations as distinct from the operations of theatres that exhibit commercial movies. Similarly, foreign-language movies do not widely appeal to U.S. audiences. As a result, most moviegoers do not regard art movies or foreign-language movies as adequate substitutes for first-run, commercial movies.

17. The relevant product market within which to assess the competitive effects of this acquisition is the exhibition of first-run, commercial movies. A hypothetical monopolist controlling the exhibition of all first-run, commercial movies would profitably impose at least a small but significant and non-transitory increase in ticket prices.

B. Geographic Markets

18. Moviegoers typically are not willing to travel very far from their home to attend a movie. As a result, geographic markets for the exhibition of first-run, commercial movies are relatively local.

Area in and Around Voorhees and Somerdale in Southern New Jersey

19. Cinemark and Rave Cinemas account for the majority of the first-run, commercial movie tickets sold in and around Voorhees Township, New Jersey and the close-by town of Somerdale, New Jersey (''Voorhees-Somerdale''), an area which encompasses Rave Cinemas' Ritz Center 16 and the Cinemark 16. These two theatres are located less than 3 miles apart. Two non-party theatres in this area also show first-run, commercial movies.

20. Moviegoers who reside in Voorhees-Somerdale are unlikely to travel significant distances out of that area to attend a first-run, commercial movie except in unusual circumstances. A small but significant post-acquisition increase in the price of first-run, commercial movie tickets in Voorhees-Somerdale would likely not cause a sufficient number of moviegoers to travel out of that area to make the increase unprofitable. Voorhees-Somerdale constitutes a relevant geographic market in which to assess the competitive effects of this acquisition.

East Louisville, Kentucky Area

21. Rave Cinemas and Cinemark account for the vast majority of the first-run, commercial movie tickets sold in the eastern portion of Louisville, Kentucky (''East Louisville''), an area which encompasses Rave Cinemas' Stonybrook 20 + IMAX, Cinemark's Tinseltown USA and XD with 19 screens, and the future Cinemark Mall of St. Matthews 10, which will exhibit first-run, commercial movies and is projected to open in July 2013. One non-party theatre in this area shows a mix of first-run, commercial movies and foreign-language and art/independent films.

22. Moviegoers who reside in East Louisville are unlikely to travel significant distances out of that area to attend a first-run, commercial movie except in unusual circumstances. A small but significant post-acquisition increase in the price of first-run, commercial movie tickets in East Louisville would likely not cause a sufficient number of moviegoers to travel out of that area to make the increase unprofitable. East Louisville constitutes a relevant geographic market in which to assess the competitive effects of this acquisition.

Western Fort Worth, Texas Area

23. Rave Cinemas and Movie Tavern account for the majority of the first-run, commercial movie tickets sold in the western portion of Fort Worth, Texas (''Western Fort Worth''), an area which encompasses Rave Cinemas' Ridgmar 13 + Xtreme and three Movie Tavern theatres: the Ridgmar with six screens, the West 7th Street with seven screens, and the Hulen with 13 screens. Three non-party theatres in this area show first-run, commercial movies.

24. Moviegoers who reside in Western Fort Worth are unlikely to travel significant distances out of that area to attend a first-run, commercial movie except in unusual circumstances. A small but significant post-acquisition increase in the price of first-run, commercial movie tickets in Western Fort Worth would likely not cause a sufficient number of moviegoers to travel out of that area to make the increase unprofitable. Western Fort Worth constitutes a relevant geographic market in which to assess the competitive effects of this acquisition.

Greater Denton, Texas Area

25. Cinemark, Movie Tavern, and Rave Cinemas account for the majority of the first-run, commercial movie tickets sold in the area in and around Denton, Texas (''Greater Denton''), an area which encompasses the Cinemark 14 in Denton, the Denton Movie Tavern with 4 screens, and the Rave Cinemas' Hickory Creek 16 in nearby Hickory Creek, Texas. One non-party theatre in this area shows first-run, commercial movies.

26. Moviegoers who reside in Greater Denton are unlikely to travel significant distances out of that area to attend a first-run, commercial movie except in unusual circumstances. A small but significant post-acquisition increase in the price of first-run, commercial movie tickets in Greater Denton would likely not cause a sufficient number of moviegoers to travel out of that area to make the increase unprofitable. Greater Denton constitutes a relevant geographic market in which to assess the competitive effects of this acquisition.

V. Competitive Effects

27. Exhibitors compete to attract moviegoers to their theatres over the theatres of their rivals. They do that by competing on price, knowing that if they charge too much (or do not offer sufficient discounted tickets for matinees, seniors, children, etc.) moviegoers will begin to frequent their rivals. Exhibitors also seek to license the first-run movies that are likely to attract the largest numbers of moviegoers. In addition, they compete over the quality of the viewing experience by offering moviegoers the most sophisticated sound systems, largest screens, best picture clarity, best seating (including stadium and reserved seating), and the broadest range and highest quality snacks, food, and drinks at concession

stands or cafes in the lobby or served to moviegoers at their seats.

28. Cinemark and/or Movie Tavern currently compete with Rave Cinemas for moviegoers in the relevant markets at issue. These markets are concentrated, and in each market, Cinemark and/or Movie Tavern and Rave Cinemas are the other's most significant competitor, given their close proximity to one another. Their rivalry spurs each to improve the quality of their theatres and keeps ticket prices in check. For various reasons, the other theatres in the relevant geographic markets offer less attractive options for the moviegoers that are served by the Cinemark and/or Movie Tavern and Rave theatres. For example, they are located farther away from these moviegoers, or they are a relatively smaller size or have fewer screens.

29. In the relevant markets at issue, the acquisition of Rave Cinemas likely will result in a substantial lessening of competition. In the Voorhees-Somerdale, East Louisville, and Greater Denton markets, the transaction will lead to significant increases in concentration and eliminate existing competition between Cinemark and Rave Cinemas. In the Western Fort Worth and Greater Denton markets, where Rave currently competes closely with Movie Tavern, Cinemark's acquisition of the Rave Cinemas theatres likely will also reduce competition because Cinemark will not have the same incentive that Rave Cinemas has to compete aggressively against Movie Tavern. In those markets, Mr. Mitchell, as both the Chairman of Cinemark and a Director of Movie Tavern, and, together with his wife, majority owner of Movie Tavern, will have both the incentive and ability to dampen competition after Rave Cinemas is acquired by Cinemark.

30. In Voorhees-Somerdale, the proposed acquisition would give Cinemark control of two of the four first-run, commercial movie theatres in that area, with 32 out of 48 total screens and an approximately 71% share of 2012 box office revenues, which totaled about $14.7 million. Using a measure of market concentration called the Herfindahl-Hirschman Index (''HHI''),[1] the acquisition would yield a post-acquisition HHI of approximately 5,861, representing an increase of roughly 2,416 points.

31. In East Louisville, after the completion of Cinemark's Mall of St. Matthews 10 in July 2013, the proposed acquisition would give Cinemark control of three of the four theatres showing first-run, commercial movies, with 49 out of 53 total screens. As measured by total screens only (since Cinemark's Mall of St. Matthews 10 does not yet have box office revenues), the acquisition would result in Cinemark having a market share of approximately 93% in East Louisville. The acquisition would yield a post-acquisition HHI of 8,604, representing an increase of roughly 4,130 points.

32. In Western Fort Worth, the proposed acquisition would give Cinemark/Movie Tavern control of four of the seven first-run, commercial movie theatres in that area, with 39 out of 71 total screens and approximately 60% of 2012 box office revenues, which totaled almost $17 million. The acquisition would yield a post-acquisition HHI of approximately 4,828 representing an increase of roughly 1,736 points.

33. In Greater Denton, the proposed acquisition would give Cinemark/Movie Tavern control of three of the four first-run, commercial movie theatres, with 34 out of 46 total screens and approximately 62% of 2012 box office revenues, which totaled about $11 million. The acquisition would yield a post-acquisition HHI of approximately 5,265, representing an increase of roughly 1,640 points.

34. Today, were one of Defendants' theatres to unilaterally increase ticket prices in a relevant market, the exhibitor that increased price would likely suffer financially as a substantial number of its patrons would patronize the other exhibitor. The acquisition would eliminate this pricing constraint. After the acquisition, Cinemark and/or Movie Tavern would re-capture a significant proportion of such losses, making price increases more profitable than they would be pre-acquisition. Thus, the acquisition is likely to lead to higher ticket prices for moviegoers, which could take the form of a higher adult evening ticket price or reduced discounting, *e.g.,* for matinees, children, seniors, and students.

35. The proposed acquisition likely would also reduce competition between Cinemark and/or Movie Tavern and Rave Cinemas over the quality of the viewing experience in the relevant markets at issue. If no longer motivated to compete, Cinemark and/or Movie Tavern and Rave Cinemas would have reduced incentives to maintain, upgrade, and renovate their theatres in the relevant markets, to improve those theatres' amenities and services, and to license the most popular movies, thus reducing the quality of the viewing experience for a moviegoer.

VI. Entry

36. Sufficient, timely entry that would deter or counteract the anticompetitive effects alleged above is unlikely. Exhibitors are reluctant to locate new first-run, commercial theatres near existing first-run, commercial theatres or near those already under construction unless the population density, demographics, or the quality of existing theatres makes new entry viable. Over the next two years, demand by moviegoers to see first-run, commercial movies in the geographic markets at issue will likely not be sufficient to support entry of new first-run, commercial movie theatres that are not already under construction.

VII. Violation Alleged

37. Plaintiffs hereby reincorporate paragraphs 1 through 36.

38. The likely effect of the proposed transaction would be to lessen competition substantially in the relevant product and geographic markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

39. The transaction would likely have the following effects, among others: (a) The prices of tickets at first-run, commercial movie theatres in the relevant markets would likely increase to levels above those that would prevail absent the acquisition; and (b) the quality of first-run, commercial theatres and the viewing experience at those theatres would likely decrease in the relevant markets below levels that would prevail absent the acquisition.

VIII. Requested Relief

40. Plaintiffs request: (a) Adjudication that the proposed acquisition would violate Section 7 of the Clayton Act; (b) permanent injunctive relief to prevent the consummation of the proposed acquisition; (c) an award to each plaintiff of its costs in this action; and (d) such other relief as is proper.

DATED: May 20, 2013.

FOR PLAINTIFF UNITED STATES OF AMERICA.

/s/

WILLIAM J. BAER (D.C. Bar #324723)

[1] *See* U.S. Dep't of Justice and Federal Trade Commission, Horizontal Merger Guidelines § 5.3 (2010), available at *http://www.justice.gov/atr/public/guidelines/hmg-2010.html.* The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2{,}600$). The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Assistant Attorney General, Antitrust Division

/s/

LESLIE C. OVERTON
Deputy Assistant Attorney General

/s/

PATRICIA A. BRINK
Director of Civil Enforcement

/s/

JOHN R. READ (D.C. Bar #419373)
Chief, Litigation III

DAVID C. KULLY (D.C. Bar #448763)
Assistant Chief, Litigation III

/s/

JUSTIN M. DEMPSEY (D.C. Bar #425976)
GREGG I. MALAWER (D.C. Bar #481685)
U.S. Department of Justice, Antitrust Division, 450 5th Street NW., Suite 4000, Washington, DC 20530. Fax: (202) 514–7308. Telephone: Justin Dempsey (202) 307–5815. Email: justin.dempsey@usdoj.gov. Telephone: Gregg Malawer (202) 616–5943, *Email: gregg.malawer@usdoj.gov.* Attorneys for Plaintiff the United States

FOR PLAINTIFF STATE OF TEXAS:

GREG ABBOTT, *Attorney General*

DANIEL T. HODGE, *First Assistant Attorney General*

JOHN SCOTT, *Deputy Attorney, General for Civil Litigation*

JOHN T. PRUD'HOMME, *Chief, Consumer Protection Division*

/s/

By: Kim VanWinkle (Texas Bar #24003104)
Chief, Antitrust Section, Office of the Attorney General, State of Texas, 300 W. 15th Street, Austin, TX 78701, Telephone: (512) 463–1266, Fax: (512) 320–0975, *kim.vanwinkle@texasattorneygeneral.gov.*

United States District Court for the District of Columbia

United States of America and *State of Texas,* Plaintiffs, v. *Cinemark Holdings, Inc., Rave Holdings, LLC,* and *Alder Wood Partners, L.P.,* Defendants.

Civil Action No.: 1:13–cv–00727.
Judge: Beryl A. Howell.
Filed: 05/20/2013.

Competitive Impact Statement

Plaintiff, United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On November 16, 2012, Defendant Cinemark Holdings, Inc. (''Cinemark'') agreed to acquire most of the assets of Rave Holdings, LLC (''Rave Cinemas''). Cinemark is a significant competitor with Rave Cinemas in the exhibition of first-run, commercial movies in parts of New Jersey, Kentucky, and Texas. Another movie theatre company, Movie Tavern, Inc. (''Movie Tavern''), which is controlled by Cinemark's founder and Chairman of the Board and majority owned by Defendant Alder Wood Partners, L.P. (''Alder Wood Partners''), is a significant competitor with Rave Cinemas in the exhibition of first-run, commercial movies in parts of Texas. Plaintiffs filed a civil antitrust complaint on May 20, 2013, seeking to enjoin the proposed acquisition and to obtain equitable relief. The Complaint alleges that the acquisition, if permitted to proceed, would either give Cinemark direct control of its most significant competitor or leave theatres controlled by Cinemark's Chairman as the most significant competitor to the Cinemark-acquired theatre. The likely effect of this acquisition would be to substantially lessen competition in the exhibition of first-run, commercial movies in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

At the same time the Complaint was filed, the Plaintiffs also filed a Hold Separate Stipulation and Order (''Hold Separate'') and a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, Cinemark and Rave Cinemas are required to divest three theatres located in New Jersey, Kentucky, and Texas to acquirer(s) acceptable to the United States, which will consult with the State of Texas on the purchaser of the Texas theatre. In addition, under the proposed Final Judgment, Alder Wood Partners is required to divest the entire business of Movie Tavern, which includes theatres located in parts of Fort Worth and Denton, Texas, to acquirer(s) acceptable to the United States, which will consult with the State of Texas as appropriate.

Under the terms of the Hold Separate, Defendants will take all steps necessary to ensure that the three theatres to be divested and the whole of the Movie Tavern business are operated as competitively independent, economically viable, and ongoing business concerns, and that competition is maintained and not diminished during the pendency of the ordered divestitures.

The Plaintiffs and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Rave Cinemas is a Delaware limited liability company with its headquarters in Dallas, Texas. Rave Cinemas owns and operates 35 movie theatres containing 518 screens in a dozen states throughout the United States. Rave Cinemas is the seventh-largest theatre exhibitor in the United States and earned domestic box office revenue of approximately $169 million in 2012.

Cinemark is a Delaware corporation with its headquarters in Plano, Texas. It owns and operates 298 theatres with 3,916 screens in various states. Cinemark is the third-largest theatre exhibitor in the United States and earned domestic box office revenues of approximately $1 billion in 2012. Lee Roy Mitchell is a founder, a significant shareholder, and Chairman of the Board of Directors of Cinemark.

Defendant Alder Wood Partners, L.P. (''Alder Wood Partners'') is a Texas limited partnership with its headquarters in Dallas, Texas. Alder Wood Partners owns 100% of the voting shares of Movie Tavern. Mr. Lee Roy Mitchell and his wife own 99% of Alder Wood Partners. Through Alder Wood Partners, they control Movie Tavern and receive approximately 92% of its profits. The other approximately 8% of Movie Tavern's profits is reserved for the benefit of its management. Movie Tavern is a Texas corporation with its headquarters in Dallas, Texas. In addition to serving as Cinemark's Chairman, Mr. Mitchell serves as a Director of Movie Tavern. Movie Tavern owns and operates 16 movie theatres, with a total of 130 screens in seven states and earned box office revenues of approximately $31 million in 2012.

On November 16, 2012, Cinemark and Rave Cinemas executed a purchase and sale agreement under which Cinemark will acquire, for approximately $220 million, thirty-two of Rave Cinemas' thirty-five movie theatres and will manage the three theatres it is not acquiring until Rave Cinemas has sold them.

The proposed transaction, as initially agreed to by Cinemark and Rave Cinemas on November 16, 2012, would lessen competition substantially as a result of Cinemark's acquisition of Rave Cinemas. This acquisition is the subject of the Complaint and proposed Final Judgment filed by the Plaintiffs on May 20, 2013.

B. The Competitive Effects of the Transaction on the Exhibition of First-Run, Commercial Movies

The exhibition of first-run, commercial movies in parts of New Jersey, Kentucky, and Texas constitute lines of commerce and relevant markets for antitrust purposes.

1. The Relevant Product and Geographic Markets

The exhibition of first-run, commercial movies is a relevant product market under Section 7 of the Clayton Act. The experience of viewing a film in a theatre is an inherently different experience from live entertainment (*e.g.,* a stage production or attending a sporting event), or viewing a movie in the home (*e.g.,* through streaming video, on a DVD, or via pay-per-view).

Reflecting the significant differences between viewing a movie in a theatre and other forms of entertainment, ticket prices for movies are generally very different from prices for other forms of entertainment. Live entertainment is typically significantly more expensive than a movie ticket, whereas renting a DVD or ordering a pay-per view movie for home viewing is usually significantly cheaper than viewing a movie in a theatre.

Moviegoers generally do not regard theatres showing ''sub-run'' movies, art movies, or foreign language movies as adequate substitutes for commercial, first-run movies.

The transaction substantially lessens competition in four relevant geographic markets: one in part of New Jersey, one in part of Kentucky, and two in Texas. Each geographic market contains a number of theatres—the majority of which are owned by the Defendants—at which consumers can view first-run, commercial movies. These relevant geographic markets are, specifically, as follows: the area in and around Voorhees and Somerdale in southern New Jersey (''Voorhees-Somerdale''), the eastern portion of Louisville, Kentucky (''East Louisville''), the western portion of Fort Worth, Texas (''Western Forth Worth''), and the area in and around Denton, Texas (''Greater Denton'').

Voorhees-Somerdale

Rave Cinemas' Ritz Center 16 is located in Voorhees Township, New Jersey, and the Cinemark 16 operates in Somerdale, New Jersey. These theatres are located less than 3 miles apart. Two non-party theatres show first-run, commercial movies in the area around these towns.

East Louisville

The eastern portion of Louisville, Kentucky encompasses Rave Cinemas' Stonybrook 20 + IMAX, Cinemark's Tinseltown USA and XD with 19 screens, and the future Cinemark Mall of St. Matthews 10, which will exhibit first-run, commercial movies and is projected to open in July 2013. In this area, one non-party theatre shows a mix of first-run commercial movies, and foreign-language and art/independent films.

Western Fort Worth

The western portion of Fort Worth, Texas, encompasses Rave Cinemas' Ridgmar 13 + Xtreme and three Movie Tavern theatres: the Ridgmar with six screens, the West 7th Street with seven screens, and the Hulen with 13 screens. Three non-party theatres in the area show first-run, commercial movies.

Greater Denton

The area of Greater Denton, Texas, encompasses the Cinemark 14 in Denton, the Denton Movie Tavern with 4 screens, and Rave Cinemas' Hickory Creek 16 in nearby Hickory Creek, Texas. One non-party theatre in this area shows first-run, commercial movies.

The relevant markets in which to assess the competitive effects of this transaction are the first-run, commercial theatres in the above-mentioned geographic areas: Voorhees-Somerdale, East Louisville, Western Fort Worth, and Greater Denton. A hypothetical monopolist controlling the exhibition of all first-run, commercial movies in each of these areas would profitably impose at least a small but significant and non-transitory increase in ticket prices.

2. Competitive Effects in the Relevant Markets

Exhibitors that operate first-run, commercial theatres compete on multiple dimensions. Exhibitors compete on price, knowing that if they charge too much (or do not offer sufficient discounted tickets for matinees, seniors, children, etc.), moviegoers will begin to frequent their rivals. Exhibitors also seek to license the first-run movies that are likely to attract the largest numbers of moviegoers. In addition, they compete over the quality of the viewing experience. They compete to offer the most sophisticated sound systems, largest screens, best picture clarity, best seating (including stadium and reserved seating), and the broadest range and highest quality snacks, food, and drinks at concession stands or cafes in the lobby or served to moviegoers at their seats.

Cinemark and/or Movie Tavern currently compete with Rave Cinemas for moviegoers in the relevant markets at issue. Each of these markets is concentrated, and Cinemark and/or Movie Tavern and Rave Cinemas are each other's most significant competitor, given their close proximity to one another. Their rivalry spurs each to improve the quality of their theatres and keeps ticket prices in check. For various reasons, the other theatres in these markets offer less attractive options for the moviegoers that are served by the Cinemark and/or Movie Tavern and Rave theatres. For example, they are located farther away from these moviegoers, or they are a relatively smaller size or have fewer screens.

In these relevant markets, the acquisition of Rave Cinemas likely will result in a substantial lessening of competition. In the Voorhees-Somerdale, East Louisville, and Greater Denton markets, the transaction will lead to significant increases in concentration and eliminate existing competition between Cinemark and Rave Cinemas. In the Western Fort Worth and Greater Denton markets, where Rave currently competes closely with Movie Tavern, Cinemark's acquisition of the Rave Cinemas theatres likely will also reduce competition because Cinemark will not have the same incentive that Rave Cinemas has to compete aggressively against Movie Tavern. In those markets, Mr. Mitchell will have both the incentive and ability to dampen competition after Rave Cinemas is acquired by Cinemark. He is the Chairman and a significant shareholder of Cinemark and a Director of Movie Tavern, and, together with his wife, majority owner of Movie Tavern, and has access to competitively-sensitive information at both companies.

In Voorhees-Somerdale, the proposed acquisition would give the newly-merged entity control of two of the four first-run, commercial theatres, with 32 out of 48 total screens and a 71% share of 2012 box office revenues, which totaled approximately $14.7 million. Using a measure of market concentration called the Herfindahl-Hirschman Index (''HHI''),[2] the

[2] *See* U.S. Dep't of Justice and Federal Trade Commission, Horizontal Merger Guidelines § 5.3 (2010), available at *http://www.justice.gov/atr/public/guidelines/hmg-2010.html.* The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2{,}600$). The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by

acquisition would yield a post-acquisition HHI of approximately, 5,861, representing an increase of roughly 2,416 points.

In East Louisville, after the completion of Cinemark's Mall of St. Matthews 10 in July 2013, the proposed acquisition would give the newly merged entity control of three of the four first-run, commercial theatres, with 49 of 53 total screens. As measured by total screens only (since Cinemark's Mall of St. Matthews 10 does not yet have box office revenues), the acquisition would result in Cinemark having a market share of approximately 93% in East Louisville. The acquisition would yield a post-acquisition HHI of 8,604, representing an increase of roughly 4,130 points.

In Western Fort Worth, the proposed acquisition would give Cinemark/Movie Tavern control of four of the seven first-run, commercial movie theatres in that area, with 39 out of 71 total screens and approximately 60% of 2012 box office revenues, which totaled almost $17 million. The acquisition would yield a post-acquisition HHI of approximately 4,828, representing an increase of roughly 1,736 points.

In Greater Denton, the proposed acquisition would give Cinemark/Movie Tavern control of three of the four first-run, commercial movie theatres, with 34 out of 46 total screens and an approximately 62% of 2012 box office revenues, which totaled approximately $11 million. The acquisition would yield a post-acquisition HHI of approximately 5,265, representing an increase of roughly 1,640 points.

In the four relevant markets today, were one of Defendants' theatres to increase ticket prices unilaterally, the exhibitor that increased price would likely suffer financially as a substantial number of its customers would patronize the other exhibitor's theatre. The other theatres are smaller and/or more distant than the parties' theatres and unlikely to offer enough of a competitive constraint to prevent such a price increase. After the acquisition, Cinemark or Movie Tavern would recapture such losses, making price increases more profitable than they would have been pre-acquisition. The acquisition is, therefore, likely to lead to higher ticket prices for moviegoers, which could take the form of a higher adult evening ticket price or reduced discounting, *e.g.,* for matinees, children, seniors, and students.

Likewise, the proposed transaction would eliminate competition between Cinemark and/or Movie Tavern and Rave Cinemas over the quality of the viewing experience at their theatres in each of the geographic markets at issue. If no longer required to compete, Cinemark and/or Movie Tavern and Rave Cinemas would have a reduced incentive to maintain, upgrade, and renovate their theatres in the relevant markets, to improve those theatres' amenities and services, and to license the most popular movies, thus reducing the quality of the viewing experience for a moviegoer.

The entry of a first-run, commercial theatre sufficient to deter or counteract an increase in movie ticket prices or a decline in theatre quality is unlikely in all of the relevant markets. Exhibitors are reluctant to locate new first-run, commercial theatres near existing first-run, commercial theatres or near those already under construction, unless the population density, demographics, or the quality of existing theatres makes new entry viable. Over the next two years, demand by moviegoers to see first-run, commercial movies in the geographic markets at issue will likely not be sufficient to support entry of any new first-run, commercial movie theatres that are not already under construction.

For all of these reasons, the proposed transaction would lessen competition substantially in the exhibition of first-run, commercial movies in the Voorhees-Somerdale, East Louisville, Western Fort Worth, and Greater Denton geographic markets, eliminate actual and potential competition between Cinemark and/or Movie Tavern and Rave Cinemas, and likely result in increased ticket prices and lower quality theatres in those markets. The proposed transaction therefore violates Section 7 of the Clayton Act.

III. Explanation of the Proposed Final Judgment

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisitions in each relevant geographic market, establishing new, independent, and economically-viable competitors. The proposed Final Judgment requires Cinemark within ninety (90) calendar days after the filing of the Complaint, or five (5) days after the notice of the entry of the Final Judgment by the Court, whichever is later, to divest as viable, ongoing businesses three theatres in the Voorhees-Somerdale, East Louisville, and Greater Denton geographic markets: the Rave Stonybrook 20 + IMAX (East Louisville), the Rave Ritz Center 16 (Voorhees-Somerdale), and either the Rave Hickory Creek 16 (Greater Denton) or the Cinemark 14 (Greater Denton).

The assets must be divested in such a way as to satisfy the Plaintiffs that the theatres can and will be operated by the purchaser as viable, ongoing businesses that can compete effectively in the relevant markets as first-run, commercial theatres. To that end, the proposed Final Judgment provides the acquirer(s) of the theatres with an option to enter into a transitional supply agreement with Cinemark of up to 120 days in length, with the possibility of one or more extensions not to exceed six months in total, for the supply of any goods, services, support, including software service and support, and reasonable use of the name Cinemark, the name Rave, and any registered service marks of Cinemark, for use in operating those theatres during the period of transition. This ensures the acquirer(s) of the theatres can operate without interruption while long-term supply agreements are arranged and the theatres rebranded. Without the option to enter into a transitional supply agreement, the acquirer(s) might find itself temporarily without provisions, including concessions, necessary to operate the theatres.

The proposed Final Judgment also requires Alder Wood Partners within ninety (90) calendar days after the filing of the Complaint, or five (5) days after the notice of the entry of the Final Judgment by the Court, whichever is later, to divest the entire business of Movie Tavern, including the Movie Tavern theatres in the Western Fort Worth and the Greater Denton geographic markets. The assets must be divested in such a way as to satisfy the Plaintiffs that the sale will remedy the competitive harm alleged in the Complaint.

Until the divestitures take place, Cinemark, Alder Wood Partners, and Rave Cinemas must maintain the sales and marketing of the theatres, and maintain the theatres in operable condition at current capacity configurations. In addition, Cinemark, Alder Wood Partners, and Rave Cinemas must not transfer or reassign to other areas within the company their employees with primary responsibility for the operation of the theatres, except for transfer bids initiated by employees pursuant to Defendants' regular, established job posting policies. In the event that Cinemark and/or Alder Wood Partners do not accomplish the divestitures within the periods prescribed in the proposed Final

a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Judgment, the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestitures.

If Cinemark is unable to effect any of the divestitures required herein due to its inability to obtain the consent of the landlord from whom a theatre is leased, Section VI.A of the proposed Final Judgment requires it to divest alternative theatre assets that compete effectively with the theatres for which the landlord consent was not obtained. If Alder Wood Partners is unable to effect the divestitures of any of the three Movie Tavern theatres, defined as the Western Fort Worth, Texas Movie Tavern Theatres in the proposed Final Judgment, due to the inability to obtain the landlords' consent, Section VI.B of the proposed Final Judgment requires Cinemark to divest the Ridgmar 13 + Xtreme theatre assets located at 2300 Green Oaks Road, Fort Worth, Texas that it will be acquiring from Rave Cinemas. These provisions will insure that any failure by Cinemark and/or Alder Wood Partners to obtain landlord consent does not thwart the relief obtained in the proposed Final Judgment. In addition, pursuant to Section V.G of the proposed Final Judgment, if a trustee has been appointed to effect the divestiture of the Movie Tavern Divestiture Assets and that trustee is unable for any reason to accomplish the divestiture of the portion of those assets that includes any of the Western Fort Worth, Texas Movie Tavern Theatres, the trustee will then divest the Ridgmar 13 + Xtreme theatre assets.

The proposed Final Judgment also prohibits Cinemark, without providing at least thirty (30) days notice to the United States Department of Justice, from acquiring any other theatres in the following counties: Tarrant County, Texas; Denton County, Texas; Camden County, New Jersey; and Jefferson County, Kentucky. These counties correspond to the relevant geographic markets in this case. The proposed Final Judgment also prohibits Alder Wood Partners, without providing at least thirty (30) days notice to the United States Department of Justice, from acquiring any theatres in any county in which Cinemark owns or operates a theatre exhibiting first-run, commercial movies in any state; however this requirement will terminate in the event that no one serving as a limited partner of Alder Wood Partners as of May 13, 2013 serves as an officer or director of Cinemark. Such acquisitions could raise competitive concerns but might be too small to be reported under the Hart-Scott-Rodino (''HSR'') premerger notification statute. However, neither company is required to provide advance notification when making an acquisition of not more than two percent of the outstanding voting securities of a publicly-traded company, or comparable non-corporate interest in an unincorporated entity, with theatres exhibiting first-run, commercial movies where such investment is made solely for the purpose of investment.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of Cinemark's acquisition of Rave Cinemas.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The Plaintiffs and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's Internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to: John R. Read, Chief, Litigation III, Antitrust Division, United States Department of Justice, 450 5th Street NW., Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The Plaintiffs considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The Plaintiffs could have continued the litigation and sought preliminary and permanent injunctions against Cinemark's acquisition of Rave Cinemas. The Plaintiffs are satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the provision of exhibition of first-run, commercial movies in the relevant markets identified by the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the Plaintiffs would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *InBev N.V/S.A.,* 2009–2 Trade Cas. (CCH) ¶76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'')[3]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001). *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.''' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; see also *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[5]

[3] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[4] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest''').

[5] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am.*

Continued

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: May 20, 2013.
Respectfully submitted,

/s/

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United States District Court for the District of Columbia

United States of America and State Of Texas, Plaintiffs, v. *Cinemark Holdings, Inc., Rave Holdings, LLC and Alder Wood Partners, L.P.* Defendants.

Civil Action No.: 1:13–cv–00727.
Judge: Beryl A. Howell.
Filed: 05/20/2013.

Final Judgment

Whereas, Plaintiffs, United States of America and State of Texas, filed their Complaint on May 20, 2013, the Plaintiffs and Defendants, Cinemark Holdings, Inc. (''Cinemark''), Rave Holdings, LLC (''Rave Cinemas''), and Alder Wood Partners, L.P. (''Alder Wood Partners''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the Defendants to assure that competition is not substantially lessened;

And whereas, Plaintiffs require Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, Defendants have represented to the Plaintiffs that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *ordered, adjudged and decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' or ''Acquirers'' means the entity or entities to which Cinemark divests the Cinemark Divestiture Assets, and the entity or entities to which Alder Wood Partners divests the Movie Tavern Divestiture Assets.

B. ''Cinemark'' means Defendant Cinemark Holdings, Inc., a Delaware corporation with its headquarters in Plano, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Rave Cinemas'' means Defendant Rave Holdings, LLC, a Delaware limited liability company with its headquarters in Dallas, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Alder Wood Partners'' means Defendant Alder Wood Partners, L.P., a Texas limited partnership with its headquarters in Dallas, Texas, its partners, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

E. Movie Tavern, Inc. means (''Movie Tavern''), a Texas corporation with its headquarters in Dallas, Texas and 16 movie theatres in seven states, and that is majority-owned by Alder Wood Partners.

F. ''Divestiture Assets'' means the Cinemark Divestiture Assets and the Movie Tavern Divestiture Assets.

G. ''Landlord Consent'' means any contractual approval or consent that the landlord or owner of one or more of the Divestiture Assets, or of the property on which one or more of the Divestiture Assets is situated, must grant prior to the transfer of one of the Divestiture Assets to an Acquirer.

H. ''Cinemark Divestiture Assets'' means the following theatre assets:

Theatre	Address
1 Rave Stonybrook 20 + IMAX	2745 South Hurstbourne Parkway, Louisville, KY 40220.
2 Rave Ritz Center 16	900 Haddonfield-Berlin Road, Voorhees, NJ 08043.
3 Rave Hickory Creek 16	8380 South Stemmons Freeway, Hickory Creek, TX 75065.
OR	
Cinemark 14	2825 Wind River Lane, Denton, TX 76210.

The term ''Cinemark Divestiture Assets'' also includes:

1. All tangible assets that comprise the business of operating theatres that exhibit first-run, commercial movies, including, but not limited to real property and improvements, research and development activities, all equipment, fixed assets, and fixtures, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used in connection with the Cinemark Divestiture Assets; all licenses, permits, and authorizations issued by any governmental organization relating to the Cinemark Divestiture Assets; all contracts (including management contracts), teaming arrangements, agreements, leases, commitments, certifications, and understandings relating primarily to the Cinemark Divestiture Assets, including supply agreements, (provided however, that supply agreements that apply to all

Dairymen, Inc., 1977–1 Trade Cas. (CCH) & 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

Cinemark theatres may be excluded from the Cinemark Divestiture Assets, subject to the transitional agreement provisions specified in Section IV (F)); all customer lists (including loyalty club data at the option of the Acquirer(s), copies of which may be retained by Cinemark at its option), contracts, accounts, and credit records relating to the Cinemark Divestiture Assets; all repair and performance records and all other records relating to the Cinemark Divestiture Assets;

2. All intangible assets relating to the operation of the Cinemark Divestiture Assets, including, but not limited to all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, (provided however, that the name Cinemark, the name Rave, and any registered service marks of Cinemark may be excluded from the Cinemark Divestiture Assets, subject to the transitional agreement provisions specified in Section IV (F)), technical information, computer software and related documentation (provided however, that Cinemark's proprietary software may be excluded from the Cinemark Divestiture Assets, subject to the transitional agreement provisions specified in Section IV (F)), know-how and trade secrets relating primarily to the Cinemark Divestiture Assets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, all research data concerning historic and current research and development relating to the Cinemark Divestiture Assets, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Cinemark and/or Rave Cinemas provide to their own employees, customers, suppliers, agents, or licensees (except for the employee manuals that Cinemark provides to all its employees), and all research data concerning historic and current research and development efforts relating to the Cinemark Divestiture Assets.

I. ''Movie Tavern Divestiture Assets'' means the entire business of Movie Tavern, Inc., including, but not limited to, the 16 theatres it currently operates as well as the theatres it has plans to open. The term ''Movie Tavern Divestiture Assets'' also includes:

1. All tangible assets that comprise the business of operating theatres that exhibit first-run, commercial movies, including, but not limited to real property and improvements, research and development activities, all equipment, fixed assets, and fixtures, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used in connection with the Movie Tavern Divestiture Assets; all licenses, permits, and authorizations issued by any governmental organization relating to the Movie Tavern Divestiture Assets; all contracts (including management contracts), teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the Movie Tavern Divestiture Assets, including supply agreements; all customer lists (including loyalty club data at the option of the Acquirer(s)), contracts, accounts, and credit records; all repair and performance records and all other records relating to the Movie Tavern Divestiture Assets;

2. All intangible assets used in the development, production, servicing, and sale of the Movie Tavern Divestiture Assets, including, but not limited to all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, all research data concerning historic and current research and development relating to the Movie Tavern Divestiture Assets, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Movie Tavern provides to its employees, customers, suppliers, agents, or licensees, and all research data concerning historic and current research and development efforts relating to the Movie Tavern Divestiture Assets.

J. ''Western Fort Worth, Texas Movie Tavern Theatres'' means the Ridgmar Movie Tavern, the West 7th Street Movie Tavern, and the Hulen Movie Tavern, which are three of the 16 currently operating Movie Tavern theatres included among the Movie Tavern Divestiture Assets.

III. Applicability

A. This Final Judgment applies to Cinemark, Rave Cinemas, and Alder Wood Partners, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV and V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer(s) of the assets divested pursuant to this Final Judgment.

IV. Divestitures

A. Cinemark is ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Cinemark Divestiture Assets in a manner consistent with this Final Judgment to one or more Acquirer(s) acceptable to the United States in its sole discretion (after consultation with the State of Texas, as appropriate). The United States, in its sole discretion, may agree to one or more extensions of this time period, not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Cinemark agrees to use its best efforts to divest the Cinemark Divestiture Assets as expeditiously as possible.

B. Alder Wood Partners is ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Movie Tavern Divestiture Assets in a manner consistent with this Final Judgment to one or more Acquirer(s) acceptable to the United States in its sole discretion (after consultation with the State of Texas, as appropriate). The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed ninety (90) calendar days in total, and shall notify the Court in such circumstances. Alder Wood Partners agrees to use its best efforts to divest the Movie Tavern Divestiture Assets as expeditiously as possible.

C. In accomplishing the divestitures ordered by this Final Judgment, Defendants Cinemark and Alder Wood Partners shall each promptly make known, by usual and customary means, the availability of their respective Divestiture Assets. (For Cinemark, its respective Divesture Assets are the Cinemark Divestiture Assets; and for Alder Wood Partners, its respective Divestiture Assets are the Movie Tavern Divestiture Assets.) Defendants shall each inform any person making an inquiry regarding a possible purchase of their respective Divestiture Assets that they are being divested pursuant to this

Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall each offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to Defendants' respective Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall each make available such information to the Plaintiffs at the same time that such information is made available to any other person.

D. Defendants Cinemark and Alder Wood Partners shall provide the Acquirer(s) and the United States information relating to the personnel involved in the operation of their respective Divestiture Assets to enable the Acquirer(s) to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer(s) to employ any Defendant employee with primary responsibility for the operation of their respective Divestiture Assets.

E. Defendants shall permit prospective Acquirer(s) of their respective Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of their respective Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

F. In connection with the divestiture of the Cinemark Divestiture Assets pursuant to Section IV, or by a trustee appointed pursuant to Section V, of this Final Judgment, at the option of the Acquirer(s), Cinemark shall enter into a commercially reasonable transitional supply, service, support, and use agreement (''transitional agreement''), up to 120 days in length, for the supply of any goods, services, support, including software service and support, and reasonable use of the name Cinemark, the name Rave, and any registered service marks of Cinemark, that the Acquirer(s) request for the operation of the Cinemark Divestiture Assets during the period covered by the transitional agreement. At the request of the Acquirer(s), the United States in its sole discretion (after consultation with the State of Texas, as appropriate), may agree to one or more extensions of this time period not to exceed six (6) months in total. The terms and conditions of the transitional agreement must be acceptable to the United States in its sole discretion (after consultation with the State of Texas, as appropriate). The transitional agreement shall be deemed incorporated into this Final Judgment and a failure by Cinemark to comply with any of the terms or conditions of the transitional agreement shall constitute a failure to comply with this Final Judgment.

G. Cinemark shall warrant to the Acquirer(s) of the Cinemark Divestiture Assets that each asset will be operational on the date of sale. Alder Wood Partners shall warrant to the Acquirer(s) of the Movie Tavern Divestiture Assets that each asset will be operational on the date of sale.

H. Defendants shall not take any action that will impede in any way the permitting, operation, or divestitures of their respective Divestiture Assets.

I. Defendants shall warrant to the Acquirer(s) that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of their respective Divestiture Assets. Following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

J. Unless the United States otherwise consents in writing, the divestitures made pursuant to Section IV, and/or by a trustee appointed pursuant to Section V of this Final Judgment, shall include all Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion (after consultation with the State of Texas, as appropriate) that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable, ongoing business of operating theatres that exhibit first-run, commercial movies. Divestitures of the Divestiture Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of the United States (after consultation with the State of Texas, as appropriate) that the Divestiture Assets will remain viable and the divestitures of such assets will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to Acquirers that, in the United States' sole judgment (after consultation with the State of Texas, as appropriate) have the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the business of theatres exhibiting first-run, commercial movies; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion (after consultation with the State of Texas, as appropriate) that none of the terms of any agreement between Acquirers and Defendants give the ability unreasonably to raise the Acquirers' costs, to lower the Acquirers' efficiency, or otherwise to interfere in the ability of the Acquirers to compete effectively.

V. Appointment of Trustee

A. If Cinemark has not divested the Cinemark Divestiture Assets within the time period specified in Section IV(A), Cinemark shall notify the United States of that fact in writing. If Alder Wood Partners has not divested the Movie Tavern Divestiture Assets within the time period specified in Section IV(B), Alder Wood Partners shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestitures of the Cinemark Divestiture Assets and/or the Movie Tavern Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Cinemark Divestiture Assets and/or the Movie Tavern Divestiture Assets, as the case may be. The trustee shall have the power and authority to accomplish the divestitures to Acquirer(s) acceptable to the United States (after consultation with the State of Texas, as appropriate) at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, VI, and VII of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of Cinemark and/or Alder Wood Partners, as the case may be, any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee and reasonably necessary in the trustee's judgment to assist in the divestiture(s).

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII.

D. The trustee shall serve at the cost and expense of Cinemark and/or Alder Wood Partners, depending on which Divestiture Assets the trustee is selling, pursuant to a written agreement or agreements with the applicable

Defendant(s) and on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Cinemark and/or Movie Tavern, depending on which Divestiture Assets the trustee sold, and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which it is accomplished, but timeliness is paramount.

E. The applicable Defendant(s) shall use their best efforts to assist the trustee in accomplishing the divestiture of their respective Divesture Assets. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the assets and business to be divested, and the applicable Defendant(s) shall develop financial and other information relevant to such assets and business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. The applicable Defendant(s) shall take no action to interfere with or to impede the trustee's accomplishment of the divestitures.

F. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Cinemark Divestiture Assets and/or Movie Tavern Divestiture Assets, as the case may be.

G. If the trustee is responsible for effecting divestiture of all or any part of the Movie Tavern Divestiture Assets, it shall notify the United States and Alder Wood Partners within five (5) business days following a determination that it is unable for any reason to accomplish the divestiture. If the Movie Tavern Divestiture Assets that the trustee is unable to divest include any of the Western Fort Worth, Texas Movie Tavern Theatres, the trustee shall then divest the Ridgmar 13 + Xtreme theatre assets located at 2300 Green Oaks Road, Fort Worth, Texas.

H. If the trustee has not accomplished the divestitures ordered under this Final Judgment within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States, which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Landlord Consent

A. If Cinemark is unable to effect any of the divestitures required herein due to the inability to obtain the Landlord Consent for any of the Cinemark Divestiture Assets, Cinemark shall divest alternative theatre assets that compete effectively with the theatre or theatres for which the Landlord Consent was not obtained. The United States shall, in its sole discretion (after consultation with the State of Texas, as appropriate) determine whether such theatre assets compete effectively with the theatres for which Landlord Consent was not obtained.

B. If Alder Wood Partners is unable to effect divestiture of any of the Western Fort Worth, Texas Movie Tavern Theatres due to the inability to obtain the Landlord Consent, Cinemark shall then divest the Ridgmar 13 + Xtreme theatre assets located at 2300 Green Oaks Road, Fort Worth, Texas, and such assets shall be deemed to be part of the Cinemark Divestiture Assets.

C. Within five (5) business days following a determination that Landlord Consent cannot be obtained for any of the Divestiture Assets, Cinemark and/or Alder Wood Partners, as applicable, shall notify the United States, and Cinemark shall propose an alternative divestiture pursuant to Section VI (A). The United States (after consultation with the State of Texas, as appropriate) shall have then ten (10) business days in which to determine whether such theatre assets are a suitable alternative pursuant to Section VI (A). If Cinemark's selection is deemed not to be a suitable alternative, the United States shall in its sole discretion select alternative theatre assets to be divested (after consultation with the State of Texas, as appropriate) from among those theatre(s) that the United States has determined, in its sole discretion, to compete effectively with the theatre(s) for which Landlord Consent was not obtained.

D. If the trustee is responsible for effecting divestiture of the Cinemark Divestiture Assets, it shall notify the United States and Cinemark within five (5) business days following a determination that Landlord Consent cannot be obtained for one or more of the Cinemark Divestiture Assets. Cinemark shall thereafter have five (5) business days to propose an alternative divestiture pursuant to Section VI (A). The United States (after consultation with the State of Texas, as appropriate) shall then have ten (10) business days to determine whether the proposed theatre assets are a suitable competitive alternative pursuant to Section VI (A). If Cinemark's selection is deemed not to be a suitable competitive alternative, the United States shall in its sole discretion select alternative theatre assets to be divested (after consultation with the State of Texas, as appropriate) from among those theatre(s) that the United States has determined, in its sole discretion, to compete effectively with the theatre(s) for which Landlord Consent was not obtained.

VII. Notice of Proposed Divestitures

A. Within two (2) business days following execution of a definitive divestiture agreement, Cinemark and/or Alder Wood Partners or the trustee, whichever is then responsible for effecting the divestitures required herein, shall notify the United States (and, as appropriate, the State of Texas), of any proposed divestitures required by Sections IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestitures and list the name, address, and telephone number of each person not previously identified who

offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States, in its sole discretion, after consultation with the State of Texas, as appropriate, may request from Defendants, the proposed Acquirer(s), any other third party, or the trustee, if applicable, additional information concerning the proposed divestitures, the proposed Acquirer(s), and any other potential Acquirer(s). Defendants and the trustee shall furnish any additional information requested to the United States within fifteen (15) calendar days of receipt of the request, unless the parties otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer(s), any third party, and the trustee, whichever is later, the United States shall provide written notice to Cinemark and/or Alder Wood Partners, as applicable, and the trustee, if there is one, stating whether it objects to the proposed divestitures. If the United States provides written notice that it does not object, the divestitures may be consummated, subject only to the applicable Defendant(s)' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VIII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

IX. Hold Separate

Until the divestitures required by this Final Judgment have been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

X. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestitures have been completed under Sections IV or V, Cinemark and Alder Wood Partners shall each deliver to the United States an affidavit as to the fact and manner of its compliance with Sections IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Cinemark Divestiture Assets or the Movie Tavern Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Cinemark and Alder Wood Partners has each taken to solicit buyers for their respective Divestiture Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Cinemark or by Alder Wood Partners, including limitation on information, shall be made within fourteen (14) calendar days of receipt of each such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Cinemark and Alder Wood Partners shall each deliver to the United States an affidavit that describes in reasonable detail all actions it has taken and all steps it has implemented on an ongoing basis to comply with Section IX of this Final Judgment. Cinemark and Alder Wood Partners shall each deliver to the United States an affidavit describing any changes to the efforts and actions outlined in their earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest their respective Divestiture Assets until one year after such divestitures have been completed.

XI. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice Antitrust Division (''DOJ''), including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy, or at plaintiffs' option, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the Plaintiffs shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XII. Notification

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), Cinemark, without providing advance notification to the DOJ, shall not directly or indirectly acquire any assets of or any interest,

including any financial, security, loan, equity or management interest, in a business exhibiting first-run, commercial movies in Tarrant County, Texas; Denton County, Texas; Camden County, New Jersey; or Jefferson County, Kentucky during the ten years following the filing of the Complaint in this action. Notwithstanding the preceding sentence, in no event shall Cinemark be required to provide advance notification under this provision when making an acquisition of (1) not more than two percent of the outstanding ''voting securities'' (as that term is defined in 16 CFR 801.1) of a publicly-traded company with theatres exhibiting first-run, commercial movies where such acquisition is made ''solely for the purpose of investment'' (as that term is defined in 16 CFR 801.1), or (2) not more than two percent of ''non-corporate interest'' (as that term is defined in 16 CFR 801.1) in any unincorporated entity that holds any interest in a business with theatres exhibiting first-run, commercial movies where such acquisition is made ''solely for the purpose of investment'' (as that term is defined in 16 CFR 801.1).

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), Alder Wood Partners, without providing advance notification to the DOJ, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in a business exhibiting first-run, commercial movies in any county which Cinemark owns or operates a theatre exhibiting first-run, commercial movies in any state during the earlier of (a) the ten years following the filing of the Complaint in this action, or (b) the date on which any person who is a limited partner of Alder Wood Partners as of May 13, 2013, no longer serves as an officer or director of Cinemark. Notwithstanding the preceding sentence, in no event shall Alder Wood Partners be required to provide advance notification under this provision when making an acquisition of (1) not more than two percent of the outstanding ''voting securities'' (as that term is defined in 16 CFR 801.1) of a publicly-traded company with theatres exhibiting first-run, commercial movies where such acquisition is made ''solely for the purpose of investment'' (as that term is defined in 16 CFR 801.1), or (2) not more than two percent of ''non-corporate interest'' (as that term is defined in 16 CFR 801.1) in any unincorporated entity that holds any interest in a business with theatres exhibiting first-run, commercial movies where such acquisition is made ''solely for the purpose of investment'' (as that term is defined in 16 CFR 801.1).

Such notification by Cinemark and/or Alder Wood Partners shall be provided to the DOJ in the same format as, and per the instructions relating to, the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 9 of the instructions must be provided only about theatres that exhibit first-run, commercial movies. Notification shall be provided at least thirty (30) calendar days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the DOJ make a written request for additional information, Defendants shall not consummate the proposed transaction or agreement until thirty (30) days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XIII. No Reacquisition

Neither Cinemark nor Alder Wood Partners may acquire or reacquire any part of the Cinemark Divestiture Assets or Movie Tavern Divestiture Assets divested under this Final Judgment during the term of this Final Judgment.

XIV. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XV. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XVI. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____, 2013

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

United States District Judge

[FR Doc. 2013–12762 Filed 5–29–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application; United States Pharmacopeial Convention

Pursuant to Title 21 Code of Federal Regulations 1301.34 (a), this is notice that on March 11, 2013, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
3,4-Methylenedioxyamphetamine (7400).	I
Codeine-N-oxide (9053)	I
Difenoxin (9168)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Norlevorphanol (9634)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II

Drug	Schedule
Pentobarbital (2270) \	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Phenylacetone (8501)	II
Alphaprodine (9010)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene,bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II

The company plans to import reference standards for sale to researchers and analytical labs.

The company plans to import the listed controlled substances in bulk powder form from foreign sources for the manufacture of analytical reference standards for sale to their customers.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedules I and II, which fall under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 1, 2013.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic classes of any controlled substances in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: May 22, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–12841 Filed 5–29–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration; United States Pharmacopeial Convention

By Notice dated March 12, 2013, and published in the **Federal Register** on March 20, 2013, 78 FR 17230, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Norlevorphanol (9634)	I
Levomethorphan (9210)	II
Difenoxin (9168)	II

The company plans to import the listed controlled substances in bulk powder form from foreign sources for the manufacture of analytical reference standards for sale to their customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of United States Pharmacopeial Convention to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated United States Pharmacopeial Convention to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: May 22, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–12844 Filed 5–29–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; Siegfried USA, LLC

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 18, 2013, Siegfried USA, LLC., 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Opium Tincture (9630), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance for distribution to its customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR § 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 29, 2013.

Dated: May 22, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–12829 Filed 5–29–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; Sigma Aldrich Research Biochemicals, Inc.

By Notice dated February 8, 2013, and published in the **Federal Register** on February 21, 2013, 78 FR 12102, Sigma

Aldrich Research Biochemicals, Inc., 1–3 Strathmore Road, Natick, Massachusetts 01760–2447, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405).	I
Psilocybin (7437)	I
5-Methoxy-N,N-diisopropyltryptamine (7439).	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (TCP) (7470).	I
N-Benzylpiperazine (BZP) (7493)	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Ecgonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metazocine (9240)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Remifentanil (9739)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The company plans to manufacture reference standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Sigma Aldrich Research Biochemicals, Inc., to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Sigma Aldrich Research Biochemicals, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: May 22, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–12832 Filed 5–29–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; Mallinckrodt, LLC.

By Notice dated February 8, 2013, and published in the **Federal Register** on February 21, 2013, 78 FR 12102, Mallinckrodt, LLC., 3600 North Second Street, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Difenoxin (9168)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Norlevorphanol (9634)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non—dosage forms) (9273).	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the listed controlled substances for internal use and for sale to other companies.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Mallinckrodt, LLC., to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Mallinckrodt, LLC., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: May 22, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–12831 Filed 5–29–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reporting and Performance Standards for Workforce Investment Act Indian and Native American Programs

ACTION: Notice.

SUMMARY: On May 31, 2013, the Department of Labor (DOL) will submit the Employment and Training (ETA) sponsored information collection request (ICR) revision titled, ''Reporting and Performance Standards for Workforce Investment Act Indian and Native American Programs,'' to the Office of Management and Budget

(OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before July 1, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201212-1205-006* (this link will only become active on June 1, 2013) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR covers the recordkeeping and reporting system for the Indian and Native Americans funded grants and has three constituent information collections: (1) A quarterly Comprehensive Services Program report (Form ETA–9084), (2) a Standardized Participant Information Record, and (3) a quarterly Supplemental Youth Services Program Report (Form ETA–9085). These three information collections are the basis of the performance standards system for Workforce Investment Act section 166 grantees.

The ETA is revising this ICR in the following manner. Form ETA 9084 will now capture the number of eligible veterans and spouses served (with the addition of two data fields). The DOL notes that Form ETA–9085 has already been recording this information and will not be changed. In addition, Form ETA–9085 information will now be collected on the number of eligible youth between the ages of 14–21 years, rather than ages 14–24, which was allowed under the American Reinvestment and Recovery Act of 2009 (ARRA). Form ETA–9085 adds a credential attainment measure. Finally, Form-ETA 9085 data will revert to being collected quarterly, rather than monthly, as was the case prior to ARRA requirements. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 28, 2013 (78 FR 19018).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0422. The current approval is scheduled to expire on May 31, 2013; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New information collection requirements will only take effect upon OMB approval.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section by July 1, 2013. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0422. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-Employment and Training Administration.

Title of Collection: Program Reporting and Performance Standards System for Indian and Native American Programs.

OMB Control Number: 1205–0422.

Affected Public: Individuals or Households; State, Local, and Tribal Governments, and Private Sector—not-for-profit institutions.

Total Estimated Number of Respondents: 13,771.

Total Estimated Number of Responses: 28,110.

Total Estimated Annual Burden Hours: 53,611.

Total Estimated Annual Other Costs Burden: $0.

Dated: May 22, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–12756 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for ETA Form 232, Domestic Agricultural In-Season Wage Report and ETA Form 232–A, Wage Survey Interview Record, Extension with Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the 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 [44 U.S.C. 3506(c)(2)(A)]. This program helps 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, ETA is soliciting comments concerning the collection of data about ETA Form 232, *Domestic Agricultural In-Season Wage Report* and ETA Form 232–A, *Wage Survey Interview Record,* OMB Control No. 1205–0017, both of which expire July 31, 2013. These forms are used by the State Workforce Agencies to collect wage information from agricultural employers.

DATES: Written comments must be submitted to the office listed in the

addresses section below on or before July 29, 2013.

ADDRESSES: Submit written comments to William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Room C–4312, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2768. Email: *ETA.OFLC.Forms@dol.gov* subject line: ETA–232/232–A. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required by the Wagner-Peyser Act, codified at 20 CFR part 653, which covers the requirements for the acceptance and handling of intrastate and interstate job clearance orders seeking workers to perform agricultural or food processing work on a less than year-round basis. Section 653.501 states, in pertinent part, that employers must assure that the ''wages and working conditions are not less than the prevailing wages and working conditions among similarly employed agricultural workers in the area of intended employment or the applicable Federal or State minimum wage, whichever is higher.''

The collection is also required by regulations for the temporary employment of alien agricultural workers in the United States (20 CFR, part 655, subpart B) promulgated under section 218 of the Immigration and Nationality Act (INA) as amended, which require employers to pay the workers at least the adverse effect wage rate in effect at the time the work is performed, the prevailing hourly wage rate, the agreed upon collective bargaining wage or the legal federal or State minimum wage rate, whichever is highest unless special procedures apply to the occupation. *See* 20 CFR 655.120(a).

The vehicle for establishing the prevailing wage rate is ETA Form 232, *The Domestic Agricultural In-Season Wage Report.* This Report contains the prevailing wage finding based on data collected by the States from employers in a specific crop area using the ETA Form 232–A, *Wage Survey Interview Record.*

In addition, the State Workforce Agencies (SWAs) collect information from agricultural employers to determine prevailing, normal, accepted or common employment practices for a specific occupational classification. The burden information for these prevailing practice determinations is currently accounted for in OMB Control Number 1205–0457, in which the SWAs report their overall activities to ETA for grant making purposes. However, ETA believes that the work required to determine the prevailing practice in an area of employment most logically correlates to the process used to determine the prevailing wages in an area of employment. Therefore, the Department is proposing to move that burden from OMB Control Number 1205–0457 to OMB Control Number 1205–0017 and has accounted for the burden in this collection.

II. Review Focus

The Department is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

In order to meet its statutory responsibilities under the INA, the Department needs to extend an existing collection of information pertaining to wage rates for various crop activities.

Type of Review: Revision

Title: Domestic Agricultural In-Season Wage Report and Wage Survey Interview Record

OMB Number: 1205–0017 and 1205–0457.

Affected Public: Private sector business or other for-profits and farms; and State, local, or tribal Governments.

Form(s): ETA–232 and ETA–232–A

Total Annual Respondents: 24,662

Annual Frequency: 129

Total Annual Responses: 27,658

Average Time per Response: 35 minutes

Estimated Total Annual Burden Hours: 16,227

Total Annual Burden Cost for Respondents: 0

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: Signed in Washington, DC, on this 23rd day of May, 2013.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2013–12851 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,095]

Verizon Services Corporation, Customer Service Clerk, General Clerk, Clarksburg, West Virginia; Notice of Negative Determination on Reconsideration

On January 15, 2013, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Verizon Services Corporation, Customer Service Clerk, General Clerk, Clarksburg, West Virginia (subject firm). The Department's Notice was published in the **Federal Register** on February 6, 2013 (78 FR 8589).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

Verizon Services Corporation is engaged in the supply of telecommunication and wireless support services.

Workers of Verizon Services Corporation's Customer Service Clerk, General Clerk business unit at Clarksburg, West Virginia (subject worker group) are engaged in employment related to the supply of

customer service and support services for Verizon Services Corporation customers/clients.

The initial investigation resulted in a negative determination based on the Departments' findings of no shift in the supply of customer service and support services, or like or directly competitive services, to a foreign country; no increased imports of customer service and support services (or like or directly competitive services) during the relevant period; that the subject firm is neither a Supplier or a Downstream Producer; and that the subject firm was not named by the International Trade Commission as required by Section 222(e) of the Trade Act, as amended.

In the request for reconsideration, the petitioning worker alleged that work performed by the subject worker group was outsourced to not only Mexico but also the Philippines and India; that the worker group at Clarksburg, West Virginia are similarly situated as workers who are eligible to apply for Trade Adjustment Assistance (TAA) under TA–W–81,968; that the workers ''performed all aspects of customer service in telecommunications'' such as order management; that ''inter-company numbers were changed to Spanish''; and that ''When calling within the company for internet issues, we spoke with Verizon workers in India.''

During the reconsideration investigation, the Department carefully reviewed the petition and its attachments, previously-submitted information from the subject firm, the certification of TA–W–81,968 and new information obtained from the subject firm regarding the allegations set forth in the request for reconsideration.

During the reconsideration investigation, the Department confirmed that the subject firm did not shift to a foreign country the supply of services like or directly competitive with the customer service or support services supplied by the subject workers and that, during the relevant period, the subject firm did not import services like or directly competitive with the customer service or support services supplied by the subject workers. The subject firm also affirmed that the petitioning workers voluntarily left employment from the subject firm, as permitted by the collective bargaining agreement applicable to the worker group at the Clarksburg, West Virginia facility.

Further, the workers and former workers eligible to apply for TAA under TA–W–81,968 (Verizon Business Networks Services, Inc., Senior Analysts-Sales Implementation, Birmingham, Alabama) are not similarly-situated as workers covered by TA–W–82,095 because the services supplied by the two worker groups differ and the petitioning workers belong to a different business unit. Further, Verizon Business Networks Services, Inc. is not the same company as Verizon Services Corporation.

Therefore, after careful review of the petition and its attachments, previously-submitted information, the request for reconsideration, the certification of TA–W–81,968 and information obtained during the reconsideration investigation, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review, I determine that the requirements of Section 222 of the Act, 19 U.S.C. 2272, have not been met and, therefore, deny the petition for group eligibility of Verizon Services Corporation, Customer Service Clerk, General Clerk, Clarksburg, West Virginia, to apply for adjustment assistance, in accordance with Section 223 of the Act, 19 U.S.C. 2273.

Signed in Washington, DC on this 16th day of May, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–12739 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,313]

Wyatt Virgin Islands (V.I.), Inc., a Division of Wyatt Field Service Company, Working On-Site at Hovensa, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands; Notice of Negative Determination on Reconsideration

The initial investigation, instituted on February 8, 2012, on behalf of workers and former workers of Wyatt Virgin Islands (V.I.), Inc., a division of Wyatt Field Service Company, working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands (subject facility) resulted in a negative determination, issued on April 6, 2012. The Department's Notice of negative determination was published in the **Federal Register** on April 19, 2012 (77 FR 23511).

Workers of Wyatt V.I., Inc. (subject firm) provided turnaround (intermittent and ''as needed'') maintenance services on-site at the subject facility. The workers of the subject firm working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands (subject worker group) worked only at the subject facility.

The petition states, ''HOVENSA = Hess Oil is a joint venture with Venezuela. Impact of the closure of this plant & refinery will affect thousands of people displacing workers workforce. Losses at the HOVENSA refinery have totaled $1.3 billion in the past three years, and are projected to continue.''

The petitioning worker group eligibility requirements for workers (and former workers) of a Firm under Section 222(a) of the Act, 19 U.S.C. 2272(a), can be satisfied if the following criteria are met:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated; and

(2)(A)(i) the sales or production, or both, of such firm have decreased absolutely;

(ii)(I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(II) imports of articles like or directly competitive with articles—

(aa) into which one or more component parts produced by such firm are directly incorporated, or

(bb) which are produced directly using services supplied by such firm, have increased; or

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; and

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

(B)(i)(I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; or

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; and

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Initial Investigation

The initial investigation began when three workers filed a petition for Trade Adjustment Assistance (TAA), dated February 6, 2012, on behalf of workers and former workers of Wyatt V.I., Inc. (subject firm). Although workers of the

subject firm supplied maintenance services on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands (subject facility), Wyatt VI, Inc. is a domestic firm and the subject worker group was based out of Texas. The subject firm was under contract with HOVENSA, LLC (HOVENSA) during the relevant time period for the supply of maintenance services at the oil refinery and the worker group subject to this investigation was recruited from Texas on a seasonal and ''as needed'' staffing basis.

The initial determination was based on the findings that, although a significant proportion of the subject worker group had become separated, imports of services like or directly competitive with the maintenance services supplied by the subject firm had not increased; the subject firm had not shifted the supply of services like or directly competitive with maintenance services to a foreign country or acquired like or directly competitive services from a foreign country; the subject firm was not a supplier or downstream producer to a firm that employed a group of workers who received a certification to apply for adjustment assistance; and the subject firm was not publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

Reconsideration Investigation

By application dated May 18, 2012, a State workforce office agent requested, on behalf of a worker, administrative reconsideration of the Department's negative determination regarding the eligibility of the subject worker group to apply for adjustment assistance. In the application, the worker stated that the initial negative determination was inaccurate because ''International Global Trade & its initial impact contributed to the losses & closure of HOVENSA oil refinery, which displaced & dislocated thousands of workers, not to mention that those jobs will not return.''

On June 26, 2012, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration in order to conduct further investigation to determine worker eligibility. The Department's Notice was published in the **Federal Register** on July 10, 2012 (77 FR 40637).

In the course of the reconsideration investigation, the Department reviewed the Trade Act, as amended, applicable regulations, previously-submitted information, information provided by the worker on whose behalf the request for reconsideration was filed, and new information provided by the subject firm.

During the reconsideration investigation, the Department clarified the identity of the subject worker group. The Department confirmed that HOVENSA was the only customer of Wyatt V.I., Inc. during the relevant time period, that Wyatt V.I., Inc. was created exclusively for the contract with HOVENSA, and that the subject worker group was established to exclusively work at the HOVENSA refinery plant in the U.S. Virgin Islands. Specifically, the subject workers were temporary workers who were hired by Wyatt V.I., Inc. to perform maintenance services. As such, the Department determines that the subject worker group is limited to workers of Wyatt V.I., Inc., a division of Wyatt Field Service Company, working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands.

Section 222(a)(1) and Section 222(a)(2)(A)(i) have been met because a significant number or proportion of workers of Wyatt V.I., Inc., working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands, have become totally separated and because the supply of maintenance services supplied by the subject worker group have decreased absolutely.

Section 222(a)(2)(A)(ii) has not been met because neither increased imports of services like or directly competitive with the maintenance services supplied by the subject worker groups nor increased imports of refined petroleum products (the article which was produced directly using the maintenance services supplied by the subject worker group) could not have contributed importantly to worker separations at the subject firm.

Section 247(7) of the Trade Act, as amended (19 U.S.C. § 2319) defines ''state'' to mean the fifty States compromising the United States of America (U.S.), the District of Columbia, and the Commonwealth of Puerto Rico. Further, the regulation addressing benefits available under the Trade Program defines ''State'' to mean the fifty States compromising the U.S., the District of Columbia, and the Commonwealth of Puerto Rico. 20 C.F.R. 617.3(hh)

29 CFR 90.2 states that ''Increased imports means that imports have increased either absolutely or relative to domestic production compared to a representative base period.''

Because the subject worker group provided services on-site at a facility within the U.S. Virgin Islands, shipments of refined petroleum products, or like or directly competitive articles, into the U.S. Virgin Islands could not be considered imports into the United States, for purposes of the Trade Act, as amended. Consequently, there were no imports during the relevant period, for purposes of the Trade Act, as amended.

Section 222(a)(2)(B)(i) has not been met because the subject firm did not shift to a foreign country, or acquire from a foreign country, the supply of services like or directly competitive with the maintenance services supplied by the subject worker group. Rather, the supply of maintenance services at HOVENSA ceased when the contract between the subject firm and HOVENSA (its only client) was terminated. Further, any shift in the supply of services from the U.S. Virgin Islands would not constitute a shift from the United States to a foreign country as the U.S. Virgin Islands is not considered a state, for purposes of the Trade Act, as amended.

Conclusion

After careful review of the Trade Act of 1974, as amended, applicable regulation, and information obtained during the initial and reconsideration investigations, I determine that workers and former workers of Wyatt Virgin Islands (V.I.), Inc., a division of Wyatt Field Service Company, working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands, are ineligible to apply for adjustment assistance.

Signed in Washington, DC, on this 17th day of May, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–12738 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,313]

ICG Knott County Coal, LLC, a Subsidiary of ICG, Inc., Kite, Kentucky; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated May 6, 2013, a petitioner requested administrative reconsideration of the negative determination regarding workers'

eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of ICG Knott County Coal, LLC, a subsidiary of ICG, Inc., Kite, Kentucky (subject firm). The negative determination was issued on April 30, 2013. The workers' firm is engaged in activities related to the production of bituminous coal.

The initial investigation resulted in a negative determination based on the findings that imports of articles like or directly competitive with the articles produced by the workers did not increase during the relevant period; neither the subject firm nor its major customers increased imports of articles like or directly competitive with the articles produced by the subject workers; the subject firm did not shift production of like or directly competitive articles to a foreign country, and did not acquire production of like or directly competitive articles from a foreign country; the subject firm is neither a Supplier nor Downstream Producer to a firm (or subdivision, whichever is applicable) that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a); and the subject firm has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration included new information regarding the articles produced by the petitioning worker group.

The Department has carefully reviewed the request for reconsideration and the existing record, and will conduct further investigation to determine if workers have met the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 16th day of May, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–12736 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,471]

Amantea Nonwovens, LLC, Including On-Site Leased Workers From Express Employment Professionals, The Job Store, and Staffmark, Cincinnati, Ohio; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 25, 2013, applicable to workers of Amantea Nonwovens, L.L.C. including on-site leased workers from Express Employment Professionals and The Job Store, Cincinnati, Ohio. The workers are engaged in activities related to the production of nonwoven diaper components. The notice was published in the **Federal Register** on March 26, 2013 (78 FR 18367).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. New information from the company shows that workers leased from Staffmark were employed on-site at the Cincinnati, Ohio location of Amantea Nonwovens, L.L.C. The Department has determined that these workers were sufficiently under the control of Amantea Nonwovens, L.L.C. to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in the production of nonwoven diaper components to China.

Based on these findings, the Department is amending this certification to include workers leased from Staffmark working on-site at the Cincinnati, Ohio location of the subject firm.

The amended notice applicable to TA–W–82,471 is hereby issued as follows:

All workers from Amantea Nonwovens, L.L.C. including on-site leased workers from Express Employment Professionals, The Job Store and Staffmark, Cincinnati, Ohio, who became totally or partially separated from employment on or after February 18, 2012, through March February 25, 2015, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 14th day of May 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–12731 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *May 6, 2013 through May 10, 2013.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation

or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) there has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,496	NewPage Corporation, Select Staffing	Miamisburg, OH	February 22, 2012.
82,496A	NewPage Wisconsin Systems, Inc., NewPage Corporation	Duluth, MN	February 22, 2012.
82,496B	NewPage Wisconsin Systems, Inc., NewPage Corporation	Stevens Point, WI	February 22, 2012.
82,496C	NewPage Wisconsin Systems, Inc., NewPage Corporation, Select Staffing.	Wisconsin Rapids, WI	February 22, 2012.
82,496D	Luke Paper Company, NewPage Corporation, Select Staffing	Luke, MD	February 22, 2012.
82,496E	Rumford Paper Company, NewPage Corporation, Select Staffing	Rumford, ME	February 22, 2012.
82,496F	NewPage Wisconsin Systems, Inc., NewPage Corporation	Biron, WI	February 22, 2012.
82,496G	WickliffePaper Company, Inc., NewPage Corporation, Select Staffing.	Wickliffe, KY	February 22, 2012.
82,496H	Escanaba Paper Company, NewPage Corporation	Escanaba, MI	February 22, 2012.
82,192	NAVTEQ North America, LLC	Chicago, IL	November 15, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,346	Whirlpool Corporation, Aerotek/Tek Systems (Subcontractor of IBM Corporation).	Fort Smith, AR	October 7, 2012.
82,455	First Advantage Corporation, Tapfin, Staffworks, Aerotek Professional Services, Randstad, etc.	St. Petersburg, FL	February 11, 2012.
82,560	Velux America, Inc., TVC Holdings, Inc.	Greenwood, SC	March 13, 2012.
82,571	LexisNexis/Matthew Bender, A Reed Elsevier, Not Including Customer Service and Fulfillment Depts.	Albany, NY	March 18, 2012.
82,593	Matheson Tri-Gas, Inc., Taiyo Nippon Sanso, Electronics Division, Aerotek, Apple One, etc.	Newark, CA	March 14, 2012.
82,610	Cooper Bussmann LLC, Cooper Industries, Inc., Accounts Receivable and Credit Group.	Ellisville, MO	March 20, 2012.
82,631	Humana Insurance Company, Carenetwork, Inc., ASO Finance Group.	De Pere, WI	April 4, 2012.
82,658	SunTrust Bank, Enterprise Information Services, MDI Group, Teksystems, Insight Global.	Richmond, VA	April 12, 2012.
82,665	William Arthur, Inc., Manpower	West Kennebunk, ME	April 17, 2012.
82,682	Aclara Technologies LLC, Esco Technologies, Integrity Staffing, Manpower, etc.	Solon, OH	April 22, 2012.
82,692	ADP Workscape, Inc., ADP Inc., Aerotek	Meridian, ID	April 24, 2012.
82,693	Dresser Masoneilan Massachusetts Operation, An Effiliate of General Electric.	Avon, MA	November 20, 2012.
82,699	Medline Industries, Inc	Clearwater, FL	October 23, 2012.
82,701	Pfizer, Inc., Surveillance Testing Group Pfizer Global Supply, Makro Technologies, etc.	Groton, CT	May 1, 2012.
82,702	Electrolux Home Care Products, Inc., Electrolux Major Appliances, Electrolux North America, Inc.	Webster City, IA	February 16, 2013.
82,702A	Leased Workers From Cornerstone, Electrolux Home Care Products, Inc.	Webster City, IA	April 29, 2012.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,621	Lionbridge Technologies, Hewlett Packard Image Printer Group, Hewlett-Packard Company.	Vancouver, MA	March 15, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,241	Alcoa Automotive, Indiana Assembly & Fabricating Center, Inc., IQ Navigator, Inc.	Auburn, IN.	
82,258	Premier Silica LLC	Glenford, OH.	
82,381	BorgWarner Morse TEC, including On-Site Leased Workers from Manpower.	Cortland, NY.	
82,381A	BorgWarner Morse TEC, 800 Warren Road	Ithaca, NY.	
82,381B	BorgWarner Morse TEC, 780 Warren Road	Ithaca, NY.	
82,466	Cinetech, Deluxe Laboratories, Inc., UI Wages Reported through Deluxe Media Services.	Valencia, CA.	
82,592	JP Morgan Chase and Company, Community and Consumer Banking Division, Centralized Transaction Operations.	Los Angeles, CA.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 USC 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
82,669	U.S. Textile Corporation	Newland, NC.	
82,710	Ochin, Inc.	Portland, OR.	

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 CFR 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

TA–W No.	Subject firm	Location	Impact date
82,714	Kim Lighting, Hubbell Lighting, Inc	Ontario, CA.	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
82,521	NewPage Wisconsin Systems, Inc., Newpage Corporation	Duluth, MN.	

I hereby certify that the aforementioned determinations were issued during the period of *May 6, 2013 through May 10, 2013.* These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: May 16, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–12733 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *May 13, 2013 through May 17, 2013.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) there has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,498	Alorica, Inc.	Ames, IA	February 22, 2012.
82,505	Oberdorfer, LLC, Advanced Metals Group, LLC	Syracuse, NY	February 22, 2012.
82,546	Contech Castings, LLC, Elwood Staffing	Auburn, IN	March 7, 2012.
82,546A	Contech Castings, LLC, Elwood Staffing, Peoplelink Staffing, Sentech Services.	Pierceton, IN	March 7, 2012.
82,580	Greenwood Forgings, LLC, CONTECH Forgings, Revstone Industries, LLC, Precept Staffing & Staffsource.	Greenwood, SC	March 7, 2012.
82,589	Ames True Temper, Inc., Griffon Corporation, Staffing Services, Inc.	Falls City, NE	March 25, 2012.
82,625	CDI Corporation, On-site at IBM Corporation	Lexington, KY	April 3, 2012.
82,678	Cannon Equipment, Carts Department, IMI Americas, Inc., Aerotek and The Work Connection.	Rosemount, MN	April 19, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,424	Technicolor, Home Entertainment Services, Work Force Network, Staffline, Caliper, etc.	Livonia, MI	February 6, 2012.
82,424A	Technicolor, Home Entertainment Services, Work Force Network, Staffline, Caliper, etc.	Romulus, MI	February 6, 2012.
82,480	Pexco LLC, Columbia Division, Pridestaff	West Columbia, SC	February 5, 2012.
82,551	Siemens Medical Solutions USA, Inc., Siemens Corporation, Health Services Global Services, Supply Chain Mgmt.	Malvern, PA	May 12, 2012.
82,603	General Electric (GE) Lighting, Inc., Ravenna Lamp Plant, General Electric Company, Home and Business, etc.	Ravenna, OH	March 26, 2012.
82,605	Kern-Liebers USA, Inc., Manpower and Renhill	Holland, OH	March 25, 2012.
82,615	Bank of America,, Global Securities Group	Jersey City, NJ	March 19, 2012.
82,627	Imation Corporation, Scalable Storage, Engineering, OEM, Star Collaborative, LLC.	Oakdale, MN	April 3, 2012.
82,639	Agilent Technologies, Inc., Agilent Order Fulfillment (AOF), Chemical Analysis Group, etc.	Lexington, MA	April 5, 2012.
82,639A	Agilent Technologies, Inc., Agilent Order Fulfillment (AOF), Chemical Analysis Group, etc.	Danbury, CT	April 5, 2012.

TA–W No.	Subject firm	Location	Impact date
82,649	Cigna Health and Life Insurance Company, Provider Data Management Team, Connecticut General Life Insurance Company.	Tampa, FL	April 11, 2012.
82,654	Collom & Carney Clinic Association, Medical Transcription Department.	Texarkana, TX	April 13, 2012.
82,672	Maxima Technologies & Systems LLC, Enterforce	Lancaster, PA	April 18, 2012.
82,695	Finisar Corporation, Horsham Division	Horsham, PA	June 18, 2013.
82,695A	Leased Workers from Allied Resources, Tech USA, Aerotek, Zero Chaos, Working On-Site at Finisar Corporation, Horsham Division.	Horsham, PA	April 25, 2012.
82,698	BI–LO, LLC, Help Desk Department, Bi-Lo, Holdings, Worksmart	Greenville, SC	April 29, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,584	Nanosolar, Inc., On-Site Leased Workers From Coast Personnel Service.	San Jose, CA.	
82,585	Genlyte Thomas Group, Philips Lightolier, Adecco Employment Services.	Fall River, MA.	
82,677	Caterpillar, Inc., IMOD Division	Decatur, IL.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 USC 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
82,608	Sew & So Embroidery, Inc.	Sugar Grove, NC.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
82,546B	Contech Castings, LLC	Clarksville, TN.≤	

I hereby certify that the aforementioned determinations were issued during the period of *May 13, 2013 through May 17, 2013.* These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: May 21, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–12734 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 10, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than June 10, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 22nd day of May 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[26 TAA Petitions instituted between 5/13/13 and 5/17/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82724	Saint-Gobain Industrial Ceramics Inc. (Union)	Buckhannon, WV	05/13/13	05/10/13
82725	Omnova Solutions Inc. (Union)	Jeanette, PA	05/13/13	05/10/13
82726	Campbell Soup Company (Union)	Sacramento, CA	05/14/13	05/09/13
82727	Lexmark (State/One-Stop)	Lexington, KY	05/14/13	05/02/13
82728	Boeing Company (Union)	Wichita, KS	05/14/13	05/08/13
82729	Panduit Corporation (State/One-Stop)	Lockport, IL	05/14/13	05/13/13
82730	Baxter (Company)	Aibonito, PR	05/14/13	05/07/13
82731	Pittsburgh Corning Corporation (Union)	Port Allegany, PA	05/14/13	05/10/13
82732	Harding Marketing Inc. (Workers)	San Jose, CA	05/14/13	05/02/13
82733	Solopower Inc. (Workers)	Portland, OR	05/14/13	05/01/13
82734	Schawk, Stamford (Company)	Stamford, CT	05/14/13	05/06/13
82735	Kongsberg Automotive (State/One-Stop)	Benton, LA	05/14/13	05/03/13
82736	Ames True Temper, Inc. (Company)	Union City, PA	05/14/13	05/06/13
82737	San Gabriel Valley Tribune (State/One-Stop)	West Covina, CA	05/14/13	05/10/13
82738	Verizon Corporate Service (State/One-Stop)	Victorville, CA	05/14/13	04/26/13
82739	Navarre Corporation (State/One-Stop)	New Hope, MN	05/15/13	05/14/13
82740	Krystal Infinity LLC (State/One-Stop)	Brea, CA	05/15/13	05/14/13
82741	Cerner Corporation (State/One-Stop)	Kansas City, MO	05/15/13	05/14/13
82742	Flying Food Fare Midway LLC (State/One-Stop)	Chicago, IL	05/15/13	05/14/13
82743	Delphi Product & Service Solutions (Workers)	Troy, MI	05/15/13	05/14/13
82744	TE Connectivity (Company)	Carpinteria, CA	05/15/13	05/14/13
82745	Zumtobel Lighting, Inc. (Union)	Fair Lawn, NJ	05/16/13	05/15/13
82746	Quality Manufacturing Co. Inc. (Company)	Winchester, KY	05/16/13	05/15/13
82747	Textile Piece Dyeing Co., Inc. (Company)	Lincolnton, NC	05/16/13	05/15/13
82748	SGL Carbon LLC (Union)	St. Marys, PA	05/17/13	05/16/13
82749	Dillon Yarn Corporation (Company)	Dillon, SC	05/17/13	05/13/13

[FR Doc. 2013–12735 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 10, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 10, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 16th day of May 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[18 TAA Petitions instituted between 5/6/13 and 5/10/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82706	Excelsior Services Group LLC (Workers)	Richardson, TX	05/06/13	05/03/13
82707	Delphi Electronics & Safety Flint (Company)	Flint, MI	05/06/13	05/02/13
82708	RBC Manufacturing Corporation (Company)	West Plains, MO	05/06/13	05/02/13
82709	Baxter Healthcare (State/One-Stop)	Largo, FL	05/06/13	05/03/13
82710	Ochin, Inc. (Company)	Portland, OR	05/06/13	05/01/13

APPENDIX—Continued

[18 TAA Petitions instituted between 5/6/13 and 5/10/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82711	Penske Truck Leasing Co., LP (Workers)	Reading, PA	05/06/13	04/23/13
82712	Micro/Nano Fabrication Center (State/One-Stop)	Tucson, AZ	05/06/13	04/27/13
82713	Harris Corporation RF (State/One-Stop)	Rochester, NY	05/07/13	05/06/13
82714	Kim Lighting (State/One-Stop)	Ontario, CA	05/07/13	05/06/13
82715	SuperMedia LLC (Union)	DFW Airport, TX	05/07/13	05/06/13
82716	BT America's (State/One-Stop)	Miamisburg, OH	05/08/13	05/03/13
82717	AlphaCore Pharma (State/One-Stop)	Ann Arbor, MI	05/08/13	04/30/13
82718	Schweitzer-Mauduit International, Inc. (Company)	Ancram, NY	05/08/13	05/01/13
82719	Hopewell Hardwood Sales Inc. (Workers)	Hopewell, VA	05/08/13	04/29/13
82720	Triangle Suspension Inc. (Workers)	Mt. Olive, NC	05/09/13	05/08/13
82721	EZO Copper Products (Company)	Jacksonville, TX	05/10/13	05/09/13
82722	Ansonia Specialty Metals LLC (State/One-Stop)	Waterbury, CT	05/10/13	05/09/13
82723	Glit Microtron (Workers)	Wrens, GA	05/10/13	05/07/13

[FR Doc. 2013–12732 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,572; TA–W–71,572A; TA–W–71,572B; TA–W–71,572C]

Amended Revised Determination on Reconsideration

[TA–W–71,572]

Severstal Wheeling, Inc. A subsidiary of severstal North America, Inc., currently known as RG Steel Wheeling, LLC, including workers whose unemployment insurance (UI) wages are reported through Ohio cold rolling company Martins Ferry, Ohio

[TA–W–71,572A]

Severstal Wheeling, Inc. A Subsidiary Of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, including workers whose unemployment insurance (UI) wages are reported through Ohio cold rolling company Yorkville, Ohio

[TA–W–71,572B]

Severstal Wheeling, Inc., A subsidiary of severstal North America, Inc., currently known as RG Steel Wheeling, LLC, including workers whose unemployment insurance (UI) wages are reported through Ohio cold rolling company Mingo Junction, Ohio

[TA–W–71,572C]

Severstal Wheeling, Inc., A subsidiary of severstal North America, Inc., currently known as RG Steel Wheeling, LLC, including workers whose unemployment insurance (UI) wages are reported through Ohio cold rolling company Steubenville, Ohio

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Notice of Revised Determination on Reconsideration on May 6, 2011, applicable to workers of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Martins Ferry, Ohio; Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Yorkville, Ohio (TA–W–71,572A); Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Mingo Junction, Ohio (TA–W–71,572B); and Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Steubenville, Ohio (TA–W–71,572C). The workers produce a variety of steel coils. The Revised Determination was published in the **Federal Register** on May 20, 2011 (76 FR 29276–29277). The Revised Determination was amended on June 6, 2011 to include workers whose wages reported under a separate unemployment insurance (UI) tax account under the name RG Steel Wheeling, LLC. The amended Revised Determination was published in the **Federal Register** on June 15, 2011 (76 FR 35030–35031). The Revised Determination was amended again on August 23, 2011 to correct the impact date established for the Mingo Junction, Ohio location (TA–W–71,572B) to read July 13, 2009. The amended Revised Determination was published in the **Federal Register** on September 2, 2011 (76 FR 54793–54794).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that as of January, 2013, workers separated from employment at the Martins Ferry, Ohio, Yorkville, Ohio, Mingo Junction, Ohio and Steubenville, Ohio locations of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC had their wages reported through a separate unemployment insurance (UI) tax account under the name Ohio Cold Rolling Company.

Accordingly, the Department is amending this certification to include workers of the subject firm whose unemployment insurance (UI) wages are reported through Ohio Cold Rolling Company.

The intent of the Department's Revised Determination on Reconsideration is to include all workers of the subject firm who were adversely affected by increased imports of steel coils.

The amended notice applicable to TA–W–71,572, TA–W–71,572A, TA–W–71,572B, and TA–W–71,572C are hereby issued as follows:

''All workers of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, including workers whose unemployment insurance (UI) wages are reported through Ohio Cold Rolling Company, Martins Ferry, Ohio (TA–W–71,572); Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, including workers whose unemployment insurance (UI) wages are reported through Ohio Cold Rolling Company, Yorkville, Ohio (TA–W–71,572A); Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, including workers whose unemployment insurance (UI) wages are reported through Ohio Cold Rolling Company, Steubenville, Ohio (TA–W–71,572C) who became totally or partially separated from employment on or after June 17, 2008 through May 6, 2013 and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended

And

''All workers of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, including workers whose unemployment insurance (UI) wages are reported through Ohio Cold Rolling Company, Mingo Junction, Ohio (TA–W–71,572B), who became totally or partially separated from employment on or after July 13, 2009, through May 6, 2013, and

all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed at Washington, DC, this 16th day of May 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–12737 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0039]

Intertek Testing Services NA, Inc.: Application for Expansion of Recognition and Request To Remove a Condition of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Intertek Testing Services NA, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory and presents the Agency's preliminary finding to grant the application and request. Intertek Testing Services NA, Inc. requests the addition of two new sites and for OSHA to remove a special condition of its recognition that involves testing hazardous-location equipment. This preliminary finding does not constitute an interim or temporary approval of the application and request.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission on or before July 1, 2013.

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

Electronically: Tender submissions electronically to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions online for making electronic submissions.

Facsimile: If submissions, including attachments, are not longer than ten (10) pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Regular or express mail, hand delivery, or messenger (courier) service: Tender submissions to the OSHA Docket Office, Docket No. OSHA–2013–0012, Technical Data Center, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving submissions sent by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by regular or express mail, hand delivery, or messenger (courier) service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2007–0039). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials may be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Extension of Comment Period: You may submit requests for an extension of the comment period on or before June 14, 2013 to the Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999.

General and technical information: Contact David Johnson, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone (202) 693–2110. OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov* and select ''N'' in the ''A to Z Index'' located at the top of the Web page).

Copies of the **Federal Register** *notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as other relevant information, is also available on OSHA's Web page at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion of NRTL Recognition and Request To Remove a Condition of Recognition

The Occupational Safety and Health Administration (OSHA) is providing notice that Intertek Testing Services NA, Inc. (ITSNA) is applying for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). ITSNA also is requesting to remove a special condition for testing and evaluating hazardous-location equipment.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in Title 29, Code of Federal Regulations, Section 1910.7 (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. Recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including ITSNA, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

Each NRTL's scope of recognition has three elements: (1) The type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that has/have

the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope; and (3) the supplemental program(s) that the NRTL may use. Each of these elements allows the NRTL to rely on other parties to perform activities necessary for product testing and certification.

ITSNA currently has 14 facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: Intertek Testing Services NA, Inc., 3933 U.S. Route 11, Cortland, New York 13045. A complete list of ITSNA sites recognized by OSHA is available at *http://www.osha.gov/dts/otpca/nrtl/its.html.*

II. General Background on the Application and Request

ITSNA submitted an application, dated June 8, 2007 (Ex. 1: ITSNA Application), to expand its recognition to include three additional facilities (sites) located at: 545 East Algonquin Road, Suite F, Arlington Heights, IL 60005 (ITSNA Chicago); 420 North Dorothy Drive, Richardson, TX 75081 (ITSNA Dallas); and 2307 East Aurora Road, Suite B7, Twinsburg, OH 44087 (ITSNA Cleveland). ITSNA later amended its application to remove the ITSNA Cleveland site from the application, and to change the address for the ITSNA Dallas site to 1809 10th Street, Suite A, Plano, TX 75074 (Ex. 2: ITSNA Amended Applications dated 7/22/2009 and 10/20/2009).

On November 6, 2009, ITSNA submitted a letter seeking to relax or remove a special condition of its recognition which states: ''All safety test reports for hazardous location products must undergo a documented review and approval at the Cortland testing facility by a test engineer qualified in hazardous location safety testing, prior to ITSNA's initial or continued authorization of the certifications covered by these reports. The above limitations apply solely to ITSNA's operations as an NRTL'' (Ex. 3: ITSNA Hazardous Location Letter).

In connection with these requests, NRTL Program staff performed on-site reviews of ITSNA's testing facilities in January 2010 (ITSNA Chicago) and February 2010 (ITSNA Dallas), and recommended expansion of ITSNA's recognition to include these two sites (Ex. 4: ITSNA On-site Review Reports). Additionally, audits of these and other ITSNA NRTL sites determined that ITSNA has the appropriate training programs and controls in place to remove the special condition for testing hazardous-location equipment (Ex. 5: Memorandum Regarding Removal of Hazardous Location Restriction). As a result, the Agency preliminarily determined that it should (1) expand ITSNA's scope of recognition to include the ITSNA Chicago and ITSNA Dallas sites, and (2) remove the special condition stated above from ITSNA's scope of recognition.

III. Preliminary Finding on the Application and Request

ITSNA submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and the results of the Agency's on-site reviews and other audits, indicate that ITSNA can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to use the facilities at the ITSNA Chicago and ITSNA Dallas sites for NRTL testing and certification. The on-site reviews and audits also indicate that the special condition of ITSNA's recognition is no longer necessary. This preliminary finding does not constitute an interim or temporary approval of ITSNA's application and request. ITSNA corrected the discrepancies noted by OSHA during the on-site reviews, and the on-site review reports describes these corrections (Ex. 4: ITSNA On-site Review Reports).

OSHA welcomes public comment as to whether ITSNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL and removal of the special condition of recognition. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in ITSNA's application and request, including pertinent documents (e.g., exhibits) and all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0039.

The NRTL Program staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary whether to grant ITSNA's application for expansion and its request to remove the special condition of recognition. The Assistant Secretary will make the final decision on granting the application and request. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 23, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–12810 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0041]

Southwest Research Institute: Modification of Scope of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA is issuing a determination deleting a test standard from the scope of recognition of a Nationally Recognized Testing Laboratory (NRTL), Southwest Research Institute, based on that NRTL's voluntary request that OSHA reduce its scope of recognition.

DATES: This modification of scope is effective on May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email *Meilinger.francis2@dol.gov.*

General and technical information: Contact David Johnson, NRTL Program, Occupational Safety and Health Administration, Room N–3655, U.S. Department of Labor, 200 Constitution

Avenue NW., Washington, DC 20210; telephone (202) 693–2110. OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov* and select ''N'' in the ''A to Z Index'' located at the top of the Web page).

Copies of this Federal Register notice: Electronic copies of this **Federal Register** notice are available under Docket No. OSHA–2006–0041 at *http://www.regulations.gov.* This **Federal Register** notice is also available on OSHA's Web page at *http://www.osha.gov.* Access the **Federal Register** notice on this Web page by selecting ''F'' under the ''A to Z Index'' at the top of the page.

SUPPLEMENTARY INFORMATION:

I. Determination Regarding Southwest Research Institute

Southwest Research Institute (SWRI) requested OSHA to delete a test standard, UL 60950—Information Technology Equipment (see Exhibit OSHA–2006–0041–003), from its scope of recognition. Subsection II.D of Appendix A to 29 CFR 1910.7 provides that OSHA must inform the public of such a reduction in scope. Accordingly, OSHA hereby notifies the public that it is deleting UL 60950 from SWRI's scope of recognition as of May 30, 2013. As of May 30, 2013, OSHA will no longer accept certifications by SWRI that products conform to UL 60950, and OSHA will delete UL 60950 from SWRI's scope of recognition on the OSHA Web page.

SWRI must notify those NRTL clients for which SWRI certified that products conformed to UL 60950 that SWRI's scope of recognition no longer includes UL 60950. SWRI's notification to each affected client also must inform the client that it must now obtain its product certification services, with respect to UL 60950, from an NRTL with a scope of recognition that continues to include UL 60950. SWRI's notification to each affected client must be in writing and received by the client within two weeks of the date of this Notice.

II. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 23, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–12809 Filed 5–29–13; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Request for Comments: LSC Appropriations Request for FY 2015

AGENCY: Legal Services Corporation.

ACTION: Request for Comments: LSC Appropriations Request for FY 2015.

SUMMARY: The Legal Services Corporation (LSC) is developing its FY 2015 appropriations request to Congress and is seeking public comment and testimony on what the amount of its request should be.

DATES: Written comments must be received no later than 12 p.m., Eastern Daylight Time (EDT), on June 10, 2013. Please note that written comments mailed as of this time and date will not be considered. Requests to testify at the Finance Committee meeting on June 11, 2013 should be sent to David Richardson, by email at *david.richardson@lsc.gov* or by phone at (202) 295–1510, no later than 5:30 p.m., EDT, on Thursday June 6, 2013.

ADDRESSES: Written comments may be submitted by mail, fax or email to David L. Richardson, Treasurer, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; 202–337–6834 (fax); or *david.richardson@lsc.gov.*

FOR FURTHER INFORMATION CONTACT: David L. Richardson, Treasurer, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; 202–337–6834 (fax); 202–295–1510 (phone); or *david.richardson@lsc.gov.*

SUPPLEMENTARY INFORMATION: The mission of LSC is to provide funding for high-quality civil legal assistance to low-income persons and to promote equal access to justice in our Nation. LSC submits an annual budget request directly to Congress and receives an annual direct appropriation to carry out its mission. For the current fiscal year, FY 2013, LSC received an appropriation (after sequestration and two rescissions) of $339,926,165, of which $316,144,749 is for basic field programs and required independent audits; $3,901,639 is for the Office of Inspector General; $15,792,345 is for management and grants oversight; $3,158,470 is for technology initiative grants; and $928,962 is for loan repayment assistance. Public Law 113–006, 127 Stat. 267 (March 26, 2013).

The White House FY 2014 budget request to Congress included $430 million for LSC; the LSC Board submitted a FY 2014 appropriations request of $486 million.

As part of its annual budget process, LSC notifies the Office of Management and Budget (OMB) in September of its appropriations request for the fiscal year beginning October 1 of the following calendar year. The Finance Committee of the LSC Board of Directors will meet at 12 p.m., EDT, on June 11, 2013, to hear testimony from interested parties and commence deliberations on the Board's FY 2015 appropriations request. Anyone interested in providing testimony during the meeting should notify David Richardson, by email at *david.richardson@lsc.gov* or by phone at (202) 295–1510, no later than 5:30 p.m., Eastern Daylight Time, on Thursday June 6, 2013.

LSC invites public comment on what its FY 2015 appropriations request should be. LSC must receive all written comments no later than 12 p.m., EDT, on June 10, 2013. Please note that written comments mailed as of this time and date will not be considered. More information about LSC may be found at *www.lsc.gov.*

Dated: May 24, 2013.

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2013–12853 Filed 5–29–13; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 78 FR 9071, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* Comments regarding (a) Whether the

collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: ''National Sciences Foundation Proposal/Award Information-Grant Proposal Guide''.

OMB Approval Number: 3145–0058.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The National Science Foundation Act of 1950 (Pub. L. 81–507) set forth NSF's mission and purpose:

> ''To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense. . . .''

The Act authorized and directed NSF to initiate and support:

- Basic scientific research and research fundamental to the engineering process;
- Programs to strengthen scientific and engineering research potential;
- Science and engineering education programs at all levels and in all the various fields of science and engineering;
- Programs that provide a source of information for policy formulation; and
- Other activities to promote these ends.

Over the years, NSF's statutory authority has been modified in a number of significant ways. In 1968, authority to support applied research was added to the Organic Act. In 1980, The Science and Engineering Equal Opportunities Act gave NSF standing authority to support activities to improve the participation of women and minorities in science and engineering.

Another major change occurred in 1986, when engineering was accorded equal status with science in the Organic Act. NSF has always dedicated itself to providing the leadership and vision needed to keep the words and ideas embedded in its mission statement fresh and up-to-date. Even in today's rapidly changing environment, NSF's core purpose resonates clearly in everything it does: promoting achievement and progress in science and engineering and enhancing the potential for research and education to contribute to the Nation. While NSF's vision of the future and the mechanisms it uses to carry out its charges have evolved significantly over the last four decades, its ultimate mission remains the same.

Use of the Information: The regular submission of proposals to the Foundation is part of the collection of information and is used to help NSF fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. NSF receives more than 51,000 proposals annually for new projects, and makes approximately 10,500 new awards.

Support is made primarily through grants, contracts, and other agreements awarded to more than 2,000 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on evaluations of proposal merit submitted to the Foundation.

The Foundation has a continuing commitment to monitor the operations of its information collection to identify and address excessive reporting burdens as well as to identify any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s).

Burden on the Public: The Foundation estimates that an average of 120 hours is expended for each proposal submitted. An estimated 51,000 proposals are expected during the course of one year for a total of 6,120,000 public burden hours annually.

Dated: May 24, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–12861 Filed 5–29–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Committee on Equal Opportunities in Science and Engineering (CEOSE) Advisory Committee Meeting, #1173.

Dates/Time: June 19, 2013, 9:00 a.m.–5:30 p.m. June 20, 2013, 9:00 a.m.–1:00 p.m.

Place: National Science Foundation (NSF), 4201 Wilson Boulevard, Arlington, VA 22230.

To help facilitate your entry into the building, please contact Victoria Fung (*vfung@nsf.gov*) on or prior to June 17, 2013.

Type of Meeting: Open.

Contact Person: Dr. Bernice Anderson, Senior Advisor and CEOSE Executive Secretary, Office of International and Integrative Activities (IIA), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Telephone Numbers: (703) 292–5151/703–292–8040 *banderso@nsf.gov.*

Minutes: Meeting minutes and other information may be obtained from the CEOSE Executive Secretary at the above address or the Web site at *http://www.nsf.gov/od/iia/activities/ceose/index.jsp.*

Purpose of Meeting: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning broadening participation in science and engineering.

Agenda:

Opening Statement by the CEOSE Chair

Discussions:

- Discussion of Key Points from the meetings with the National Science Foundation Acting Director and/or CEOSE officers
- NSF Strategic Plan
- Reports of CEOSE Liaisons to NSF Advisory Committees
- Evidence, Evaluation and Performance Measurement
- NSF Evaluation Capability
- Broader Impacts Infrastructure/ Evaluating Broader Impacts
- NCSES Report, *Women, Minorities and Persons with Disabilities in Science and Engineering:* 2013
- The 2011–2012 Biennial CEOSE Report To Congress
- A Conversation with Dr. Cora B. Marrett, Acting Director of the National Science Foundation
- Discussion of CEOSE Unfinished Business and New Business

Dated: May 24, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–12801 Filed 5–29–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Digital I&C; Notice of Meeting

The ACRS Subcommittee on Digital I&C will hold a meeting on June 4, 2013, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance with the exception of a portion that may be closed to protect unclassified safeguards information pursuant to 5 U.S.C. 552b(c)(3).

The agenda for the subject meeting shall be as follows:

Tuesday, June 4, 2013—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review and discuss all cyber security-related initiatives at the NRC. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christina Antonescu (Telephone 301–415–6792 or Email: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: May 22, 2013.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–12873 Filed 5–29–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Project No. 753; NRC–2013–0007]

Models for Plant-Specific Adoption of Technical Specifications Task Force Traveler TSTF–426, Revision 5, ''Revise or Add Actions To Preclude Entry Into LCO 3.0.3—RITSTF Initiatives 6B & 6C,'' Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the availability of Technical Specifications (TSs) Task Force (TSTF) Traveler TSTF–426, Revision 5, ''Revise or Add Actions to Preclude Entry into LCO [Limiting Condition for Operation] 3.0.3—RITSTF [Risk-Informed TSTF] Initiatives 6B & 6C,'' for plant-specific adoption using the Consolidated Line Item Improvement Process (CLIIP). Additionally, the NRC staff finds the proposed TS (Volume 1) and TS Bases (Volume 2) changes in Traveler TSTF–426 acceptable for inclusion in the following Standard Technical Specification (STS): NUREG–1432, ''Standard Technical Specifications Combustion Engineering Plants.''

ADDRESSES: Please refer to Docket ID NRC–2013–0007 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0007. 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.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each

document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. TSTF–426, Revision 5, includes a model application and is available in ADAMS under Accession No. ML113260461. The model safety evaluation (SE) for plant-specific adoption of TSTF–426, Revision 5, is available in ADAMS under Accession No. ML13036A381. Minor editorial comments were received from the Notice of Opportunity for Public Comment announced in the **Federal Register** on January 17, 2013 (78 FR 3921); all comments were incorporated.

• *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.

FOR FURTHER INFORMATION CONTACT: Mrs. Michelle C. Honcharik, Senior Project Manager, telephone: 301–415–1774, email: *Michelle.Honcharik@nrc.gov;* or for technical questions contact Mr. Carl Schulten, Senior Reactor Systems Engineer, telephone: 301–415–1192 or by email: *Carl.Schulten@nrc.gov.* Both of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: TSTF–426, Revision 5, is applicable to all Combustion Engineering-designed nuclear power plants. The change revises various TSs to add a Condition for loss of redundant features representing a loss of safety function for a system or component included within the scope of the plant TSs. It would replace Required Actions requiring either a default shutdown or explicit LCO 3.0.3 entry with a Required Action based on the risk significance for the system's degraded condition. This STS improvement is part of the CLIIP.

The NRC staff has reviewed the model application for TSTF–426 and has found it acceptable for use by licensees. Licensees opting to apply for this TS change are responsible for reviewing the NRC's staff SE and the applicable technical bases, providing any necessary plant-specific information, and assessing the completeness and accuracy of their license amendment request (LAR). The NRC will process each amendment application responding to the Notice of Availability according to applicable NRC rules and procedures.

The proposed changes do not prevent licensees from requesting an alternate approach or proposing changes other than those proposed in TSTF–426, Revision 5. However, significant deviations from the approach recommended in this notice or the inclusion of additional changes to the license require additional NRC staff review. This may increase the time and resources needed for the review or result in NRC staff rejection of the LAR. Licensees desiring significant deviations or additional changes should instead submit an LAR that does not claim to adopt TSTF–426, Revision 5.

Dated at Rockville, Maryland, this 20th day of May 2013.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Licensing Processes Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–12874 Filed 5–29–13; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Collection of Information; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 17a–7, SEC File No. 270–147, OMB Control No. 3235–0131.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17a–7 (17 CFR 240.17a–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17a–7 requires a non-resident broker-dealer (generally, a broker-dealer with its principal place of business in a place not subject to the jurisdiction of the United States) registered or applying for registration pursuant to Section 15 of the Exchange Act to maintain—in the United States—complete and current copies of books and records required to be maintained under any rule adopted under the Exchange Act and furnish to the Commission a written notice specifying the address where the copies are located. Alternatively, Rule 17a–7 provides that non-resident broker-dealers may file with the Commission a written undertaking to furnish the requisite books and records to the Commission upon demand within 14 days of the demand.

There are approximately 51 non-resident brokers and dealers. Based on the Commission's experience, the Commission estimates that the average amount of time necessary to comply with Rule 17a–7 is one hour per year. Accordingly, the total burden is approximately 51 hours per year. Assuming an average cost per hour of approximately $269 for a compliance manager, the total internal cost of compliance for the respondents is approximately $13,719 per year.

Written 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 Commission'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; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 23, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–12798 Filed 5–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30539; 812–13877]

ASA Gold and Precious Metals Limited; Notice of Application

May 22, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application under section 7(d) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY: *Summary of Application:* Applicant, ASA Gold and Precious Metals Limited (''ASA''), a Bermuda closed-end management investment company registered under section 7(d) of the Act, requests an order that would permit ASA to make changes to its custodial arrangements without prior Commission approval, hold assets and conduct certain securities transactions in specified foreign countries, as well as permit ASA and certain other persons to designate CT Corporation System (''CT Corp'') in the U.S. to accept service of process.

DATES: *Filing Dates:* The application was filed on March 9, 2011, and amended on March 21, 2012, and February 6, 2013.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 17, 2013 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicant, c/o Deborah Djeu, 400 S. El Camino Real, Suite 710, San Mateo, CA 94402.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876, or Daniele Marchesani, Branch Chief, at (202) 551–6747 (Division of Investment Management, Exemptive Applications Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. ASA is an internally-managed closed-end management investment company organized in 1958 in South Africa and currently organized in Bermuda. ASA is registered under the Act.[1] ASA had $591 million in net assets as of February 29, 2012. Shares of ASA trade on the New York Stock Exchange (''NYSE''). ASA's main focus is to invest in securities of companies involved in the exploration and mining of gold and other precious minerals. To this end, ASA's management is seeking to take advantage of investment opportunities in non-South African companies that are, or in the future may be, listed on the Stock Exchange of Hong Kong Limited (the ''HKSE''), the London Stock Exchange (''LSE''), the Toronto Stock Exchange (''TSX''), or the Australian Securities Exchange (''ASX'').[2] ASA states that certain conditions of the Existing Order have made it difficult for ASA to implement fully a flexible investment strategy consistent with its current fundamental investment policy and to achieve its desired portfolio diversification outside of South Africa. Applicant asserts that with the requested relief ASA will be able to better adapt to changes in the gold and other precious minerals industry and to pursue the best investment prospects on a global scale, for the benefit of its shareholders.

2. Applicant requests an order that would: (a) permit ASA to appoint a primary custodian (''Primary Custodian'') or otherwise amend its agreement with the Primary Custodian without prior Commission approval; (b) permit ASA to settle purchases and sales of portfolio securities outside of the U.S. on an additional ''established securities exchange,'' the HKSE;[3] (c) permit ASA, subject to the existing condition that ASA keep at least 20% of its assets in the United States in the custody of a U.S. bank (''20% Requirement''), to maintain its remaining assets in the custody of an eligible foreign custodian or an eligible securities depository in South Africa, Hong Kong, the United Kingdom, Canada, or Australia;[4] (d) permit ASA's Primary Custodian to change the eligible foreign custodian or eligible securities depository in whose custody it maintains ASA's assets in those five countries, and to amend the custodian agreement with ASA to reflect the change, without prior Commission approval; (e) permit ASA, through its Primary Custodian or its Primary Custodian's agent, to exercise in South Africa, Hong Kong, the United Kingdom, Canada, or Australia the rights issued to it as a shareholder in other companies for the purchase of securities; and (f) require ASA and each of its present or future directors, officers or investment advisers who is not a resident of the United States (''Non-Resident Persons'') to irrevocably designate CT Corp, instead of ASA's Primary Custodian, as an agent in the U.S. to accept service of process (''U.S. Service Agent'') in any suit, action, or proceeding (collectively, ''Proceeding'') before the Commission or any appropriate court relating to, respectively, the Non-Resident Persons' activities as directors, officers or investment advisers of ASA.[5] As described more fully in the application, ASA's foreign subcustodians generally would also designate CT Corp as U.S. Service Agent.

Applicants' Legal Analysis

1. Section 7(d) of the Act prohibits an investment company organized outside the U.S. (''foreign fund'') from making a

[1] Investment Company Act Release Nos. 2739 (July 3, 1958) (notice) and 2756 (Aug. 13, 1958 (order) (the ''Original Order''). Since 1958, the Original Order has been amended on a number of occasions. See Investment Company Act Release Nos. 26582 (Aug. 27, 2004) (notice) and 26602 (Sep. 20, 2004) (order) (''Existing Order''); Investment Company Act Release Nos. 24321 (Feb. 29, 2000) (notice) and 24367 (Mar. 27, 2000) (order) (the ''CSD Order''); Investment Company Act Release Nos. 21161 (June 23, 1995) (notice) and 21220 (July 20, 1995) (order); Investment Company Act Release Nos. 17904 (Dec. 17, 1990) (notice) and 17945 (Jan. 15, 1991) (order); Investment Company Act Release Nos. 14826 (Dec. 4, 1985) (notice) and 14878 (Dec. 31, 1985) (order); Investment Company Act Release Nos. 11669 (Mar. 6, 1981) (notice) and 11722 (Apr. 7, 1981) (order) (collectively with the CSD Order, the ''Custody Orders''); Investment Company Act Release Nos. 8278 (Mar. 20, 1974) (notice) and 8312 (Apr. 17, 1974) (order); Investment Company Act Release Nos. 7860 (June 12, 1973) (notice) and 7894 (July 10, 1973) (order); Investment Company Act Release Nos. 2944 (Dec. 14, 1959) (notice) and 2957 (Dec. 29, 1959) (order); Investment Company Act Release Nos. 2883 (May 22, 1959) (notice) and 2886 (June 9, 1959) (order) (''1959 Order''); and Investment Company Act Release Nos. 2817 (Jan. 5, 1959) (notice) and 2821 (Jan 20, 1959) (order) (collectively with the Custody Orders, the ''Subsequent Orders'' and together with the Original Order, the ''Prior Orders'').

[2] In 2005, with the approval of its shareholders, ASA replaced its fundamental investment policies that, among other things, required ASA to invest more than 50% of its assets in equity securities of gold mining companies in South Africa and no more than 20% of its assets in equity securities of companies outside of South Africa with a new investment policy that no longer contains any geographical limitations as to ASA's investments.

[3] The Existing Order defines the term ''established securities exchange'' as a national securities exchange as defined in Section 2(a)(26) of the Act, the JSE Limited South Africa (''JSE''), the LSE, the Tokyo Stock Exchange, the TSX, the ASX and the SWX Swiss Exchange.

[4] If the Commission grants the requested relief, ASA will comply with the requirements of Rule 17f–5 and Rule 17f–7 under the Act as if ASA were a registered management investment company organized or incorporated in the United States (''U.S. Fund''). The terms ''eligible foreign custodian'' and ''eligible securities depository'' have the same meaning as defined in Rule 17f–5 and Rule 17f–7.

[5] ASA would designate CT Corp as U.S. Service Agent in the same city in which ASA's Primary Custodian is located.

public offering of its securities in the U.S., but authorizes the Commission by order to permit a foreign fund to register under the Act and make a public offering of its securities in the U.S. if the Commission finds that ''by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of [the Act] against such company and that the issuance of such order is otherwise consistent with the public interest and protection of investors.'' Rule 7d–1 under the Act sets forth the conditions that an investment company organized in Canada must satisfy in order to receive an order under section 7(d) of the Act.[6] Applicant seeks an order under section 7(d) as discussed above, subject to conditions that, among other things, would require ASA to comply with many of the requirements of rule 7d–1 under the Act, including the requirement that its charter and bylaws contain the Act's substantive provisions.

2. ASA believes that it would be legally and practically feasible effectively to enforce the provisions of the Act against it and that the issuance of the requested order would be consistent with the public interest and the protection of investors. In particular, Applicant states that (i) applicable law provides substantial certainty that appropriate U.S. courts would exercise personal jurisdiction over ASA; (ii) a U.S. Federal court would possess subject matter jurisdiction in a case brought by the Commission because such a case would be based upon alleged violations of the federal securities laws; and (iii) the doctrine of *forum non conveniens* would not present an impediment to the Commission's or another party's ability to bring appropriate claims against ASA.[7] Applicant also asserts that the analysis of whether a plaintiff would be able to enforce in Hong Kong, the United Kingdom, Canada, or Australia a judgment obtained in the United States or Bermuda would be the same with respect to ASA as with a U.S. Fund. Thus, Applicant claims that placing assets in those countries does not involve any greater jurisdictional concerns in the case of ASA than it does in the case of U.S. funds, which, in addition, are not subject to the 20% Requirement. In addition, ASA has agreed to perform every action and thing necessary to cause and assist its shareholders or the Commission to collect (i) any monetary amount specified in a Commission order or (i) a final judgment entered by a court of competent jurisdiction.

3. Under the terms and conditions of the Existing Order, ASA agreed that JPMorgan Chase Bank, N.A. (''Chase'') will serve as ASA's Primary Custodian and will continue to meet the qualifications of a custodian under Section 17(f) of the Act.[8] Furthermore, one of the conditions of the Existing Order requires ASA to seek an order of the Commission prior to any amendment of its custodian agreement with its Primary Custodian. ASA seeks an order to permit it to appoint a Primary Custodian or otherwise amend its custodian agreement without prior Commission approval. ASA states that requiring Commission approval imposes on ASA an unfair and unnecessary burden not imposed on U.S. Funds, as well as diminishes ASA's ability effectively and efficiently to deal with business issues regarding its custody arrangements. ASA represents that (i) a U.S. bank eligible to serve as custodian under section 17(f) would serve as ASA's Primary Custodian, and (ii) ASA would request an order of the Commission prior to any amendment of its agreement with its Primary Custodian if the amendment conflicts with any of the representations or conditions of the requested order.

4. Under the terms and conditions of the Existing Order, ASA is required to settle its purchases and sales of portfolio securities, other than purchases and sales on an ''established securities exchange,'' in the U.S.[9] ASA requests an order expanding the definition of ''established securities exchange'' to permit it to settle purchases and sales of portfolio securities on the HKSE. Applicant states that the Act does not limit the securities exchanges on which U.S. Funds may settle securities transactions. Applicant asserts that the requirement that ASA's purchases and sales of portfolio securities, other than purchases and sales on an ''established securities exchange'' as currently defined, be settled in the U.S. renders it impracticable for ASA to purchase portfolio securities on the HKSE, and prevents ASA from taking advantage of certain investment opportunities to the detriment of its shareholders.

5. Under the terms and conditions of the Existing Order, ASA is required to keep at least 20% of its assets in the U.S. in the custody of a U.S. bank. ASA's remaining assets are also required to be kept in the custody of such U.S. custodian, except that, subject to the 20% Requirement, ASA may keep, through its custodian or South African subcustodian, in the central securities depository for equity securities in South Africa (''CSD'') up to 100% of its securities eligible for deposit at the CSD.[10] In addition, ASA is permitted to keep up to 33% of its assets in countries other than South Africa outside of the U.S. in the custody of an eligible foreign custodian or overseas branch of a U.S. bank under certain circumstances.[11] ASA seeks an order to permit it, subject to the 20% Requirement, to maintain up to 80% of its assets in the custody of an eligible foreign custodian, as defined in Rule 17f–5 under the Act, or an eligible securities depository, as defined in Rule 17f–7 under the Act, in South Africa, Hong Kong, the United Kingdom, Canada or Australia. ASA's management is seeking to take advantage of investment opportunities in non-South African companies that are, or in the future may be, listed on the HKSE, the LSE, the TSX, or the ASX.[12] ASA states

[6] Although rule 7d–1 by its terms applies only to Canadian funds, the Commission generally has required other foreign funds seeking section 7(d) orders to comply with the rule's conditions.

[7] Applicant notes that (i) unlike a U.S. Fund, ASA must maintain at least 20% of its assets in the U.S.; (ii) ASA will appoint a U.S. bank as its Primary Custodian; (iii) ASA's principal offices are located in the U.S. and a majority of its directors, executive officers, and employees would be both citizens and residents of the U.S.; and (iv) ASA would stipulate that personal jurisdiction exists in any Commission action brought against ASA in the U.S. and waive any defense of *forum non conveniens* in any such action. ASA also represents that its agreement with its Primary Custodian would contain provisions stipulating that the United States is the proper venue for disputes arising under the agreement.

[8] Section 17(f) of the Act provides that ''every registered management investment company shall place and maintain its securities and similar investments in the custody of: (A) a bank or banks having the qualifications prescribed in paragraph (1) of Section 26(a) of [the Act]. . . .''

[9] *See supra* note 3.

[10] Under the Existing Order, ASA agreed that Standard Bank would serve as Chase's subcustodian in South Africa. Subsequent staff no-action relief permitted ASA's Primary Custodian to change the subcustodian to First National Bank. *See ASA (Bermuda) Limited,* SEC No-Action Letter (December 13, 2006) (''2006 Letter'').

[11] ASA may keep: (i) up to 3% of its assets in South Africa in short-term rand-denominated investments issued or guaranteed by the Republic of South Africa; (ii) up to 5% of its assets in rand-denominated interest bearing bank accounts with eligible foreign custodians or overseas branches of U.S. banks; and (iii) up to 5% of its assets with an eligible foreign custodian or overseas branch of ASA's Primary Custodian in each of London, Japan, Australia, Switzerland, and Canada, if removal of securities purchased on the established exchanges becomes either prohibited by law or regulation or financially impracticable.

[12] Under the terms and conditions of the Existing Order, ASA is permitted to settle securities transactions on the LSE, the TSX, and the ASX (and ASA is seeking an order to permit it to settle securities transactions on the HKSE as well), but if ASA does so it must then satisfy the requirement that such securities be maintained in the U.S. with ASA's Primary Custodian. Applicant asserts that the only way it may meet this requirement is by moving physical securities away from their primary trading markets or purchasing American Depositary

Continued

that the requested relief would not change the total percentage of assets that ASA is currently permitted to maintain outside of the U.S. Rather, it would permit ASA to allocate that total percentage among, and maintain that total percentage in five countries, rather than maintain that total percentage all in one country. Moreover, as discussed more fully in the application, Applicant represents that the difficulty in enforcing a judgment obtained in the United States or Bermuda against ASA in South Africa does not exist in Hong Kong, the United Kingdom, Canada or Australia. Applicant represents that if the Commission grants the requested relief, ASA will comply with Rule 17f–5 [13] and Rule 17f–7 [14] under the Act as if ASA were a U.S. Fund.

6. ASA requests an order to permit its Primary Custodian to change the eligible foreign custodian or eligible securities depository in whose custody it maintains ASA's assets, and to amend the custodian agreement with ASA to reflect the change, without prior Commission approval. Applicant contends that requiring it to seek Commission approval before its Primary Custodian changes the eligible foreign custodian or eligible securities depository in whose custody it maintains ASA's assets imposes on ASA and its Primary Custodian an unfair burden that is not imposed upon U.S. Funds. ASA also asserts that changing the eligible foreign custodian or eligible securities depository in whose custody ASA's Primary Custodian maintains ASA's assets does not raise any jurisdictional concerns different from than those discussed above. Finally, ASA asserts that requiring it to seek Commission approval diminishes ASA's (and its Primary Custodian's) ability to deal effectively and efficiently with business issues regarding ASA's custody arrangements.

7. ASA also seeks relief to exercise in South Africa, Hong Kong, the United Kingdom, Canada, or Australia the rights issued to it as a shareholder in other companies for the purchase of securities. Under the terms and conditions of the Existing Order, ASA is required to settle its purchases and sales of portfolio securities, other than purchases on established exchanges, in the U.S.[15] Applicant contends that exercise in South Africa, Hong Kong, the United Kingdom, Canada or Australia of the rights issued to ASA as a shareholder in other companies for the purchase of securities would not constitute purchases and sales ''on'' the established exchanges. ASA asserts that without this relief, there could be significant opportunity costs and financial harms to ASA and its shareholders because, among other things, ASA could be precluded from participating in rights offerings that present attractive investment opportunities in companies with which ASA already is familiar. As stated in condition 23, applicant states that this relief would be limited so that: (a) the rights so exercised are offered to ASA as a shareholder in another company on the same basis as all other holders of the class or classes of shares of such other company to whom such rights are offered, (b) the rights so exercised do not exceed 10% of the total amount of such rights so offered, and (c) the securities purchased pursuant to such exercise, or securities of the same class, are listed on the JSE, the HKSE, the LSE, the TSX, or the ASX, or application has been made to such exchange for the listing thereon of such securities, or it has been publicly announced that application will be made to such exchange for the listing thereon of such securities.

8. Under the terms and conditions of the Existing Order, ASA and each of its Non-Resident Persons must designate Chase, ASA's Primary Custodian, as U.S. Service Agent in any Proceeding before the Commission or any appropriate court relating to their activities as directors, officers or investment advisers of ASA. ASA requests that ASA and its Non-Resident Persons be required to designate CT Corp, instead of ASA's Primary Custodian, as U.S. Service Agent.[16] ASA's foreign custodians generally also would designate CT Corp as U.S. Service Agent. Applicant states that CT Corp is a leading registered agent in the U.S. and has been in the business of providing registered agent services for over 100 years. Applicant states that permitting ASA and each of its Non-Resident Persons to designate CT Corp, instead of ASA's Primary Custodian, as U.S. Service Agent would eliminate the inconvenience and unnecessary expense associated with having to change the designated U.S. Service Agent in the event of changes to ASA's custodial arrangements. ASA, furthermore, is seeking more flexibility with respect to foreign custodians, which are not in privity of contract with ASA. ASA asserts that while Chase's current foreign subcustodians have agreed to designate CT Corp, future foreign subcustodians may not be able or willing to do so. If ASA's foreign subcustodians change, ASA will use its best efforts to ensure that the new foreign subcustodians will also designate CT Corp as U.S. Service Agent.[17] ASA does not believe that this relief would have an impact on the jurisdictional issues discussed above.

ASA's Conditions

ASA agrees that any order granting the requested relief will be subject to the following conditions:[18]

1. A U.S. bank, as defined in section 2(a)(5) of the Act and having the qualification described in section 26(a)(1) of the Act, will serve as ASA's Primary Custodian. In addition, ASA's

Receipts for those foreign securities in the U.S. market, neither of which is an effective and efficient means for ASA to achieve its desired international portfolio diversification.

[13] Rule 17f–5 permits a U.S. Fund to maintain foreign assets with an ''eligible foreign custodian.'' The fund's board of directors, its investment adviser, or custodian bank (''foreign custody manager'') must determine that the fund's assets in custody will be subject to reasonable care, based upon the standards applicable to custodians in the relevant market after considering certain factors. Rule 17f–5 also requires that the custody arrangement be governed by a written contract, including certain specified (or equivalent) provisions, that the foreign custody manager determines will provide reasonable care for fund assets. The foreign custody manager must establish a system to monitor the appropriateness of maintaining the fund's assets with the eligible foreign custodian and the performance of the contract. ASA's board of directors (the ''Board'') will serve as foreign custody manager and will not delegate such function.

[14] Rule 17f–7 permits a fund, including a registered Canadian fund, to maintain foreign assets with a foreign ''eligible securities depository'' that acts as or operates a system for the central handling of securities that is regulated by a foreign financial regulatory authority. Rule 17f–7 also requires a fund's primary custodian, or its agent, to furnish the fund or its investment adviser with an analysis of the custody risks of using an eligible securities depository before the fund places its assets with the depository. In addition, the fund's contract with its primary custodian must require the custodian, or its agent, to monitor these risks on a continuing basis and promptly notify the fund of any material change in these risks. Prior to use of an ''eligible securities depository'' for ASA's overseas assets, the Board will review the proposed arrangements to ensure they meet the requirements of Rule 17f–7.

[15] *See supra* note 3.

[16] ASA notes that the 2006 Letter granted staff no-action relief to (i) permit, among other things, ASA to continue relying on the Existing Order after Chase's subcustodian changed from Standard Bank to First National Bank, and (ii) permit ASA to continue to rely on the Existing Order while CT Corp, instead of ASA's custodian, served as FirstRand Bank Limited's U.S. Service Agent in any Proceeding before the Commission or any appropriate court relating to the activities of its subsidiary, First National Bank, as ASA's South African subcustodian.

[17] If, however, a foreign subcustodian cannot, or remains unwilling to, designate CT Corp as U.S. Service Agent, then ASA's Board will consider, as part of its decision whether to engage a Primary Custodian or use a particular foreign subcustodian, the fact that the foreign subcustodian would not designate CT Corp as U.S. Service Agent.

[18] The terms ''eligible foreign custodian,'' ''U.S. bank'' and ''foreign custody manager'' used in the conditions have the same meaning as defined in rule 17f–5 under the Act.

agreement with its Primary Custodian will contain provisions stipulating that the United States is the proper venue for disputes arising under the agreement.

2. ASA will seek an order of the Commission prior to any amendment of its agreement with its Primary Custodian if the amendment conflicts with any of the representations or conditions applicable to the Existing Order, as amended by the requested order.

3. The Board will serve as foreign custody manager and will not delegate such functions to ASA's Primary Custodian or any other person.

4. ASA will comply with Rule 17f–5 and Rule 17f–7 under the Act as if ASA were a registered management investment company organized or incorporated in the United States. Each eligible foreign custodian that ASA uses will be contractually obligated to follow the Primary Custodian's instructions with respect to assets the eligible foreign custodian holds on behalf of ASA. In each applicable jurisdiction, the Board will consider the relationship between an eligible foreign custodian and an eligible securities depository (including whether the eligible foreign custodian is liable for the eligible securities depository's misdeeds to the same extent as if such securities were maintained by the eligible foreign custodian) and will determine that maintaining assets in the eligible securities depository through the eligible foreign custodian is in the best interest of ASA and its shareholders.

5. ASA will cause each present and future officer, director, investment adviser, and principal underwriter of ASA to enter into an agreement (''Agreement'') (to be filed by ASA with the Commission when that person assumes office), which will provide that each person agrees: (a) to comply with ASA's charter and bylaws, the Act and the rules of the Commission under the Act, and the undertakings and agreements contained in the application as applicable to each person and as each may be amended from time to time, as applicable to each person; (b) to do nothing inconsistent with the undertakings and agreements contained in the application, the provisions of the Act, or the rules under the Act; (c) that the undertakings described in (a) and (b) above constitute representations and inducements to the Commission to issue the requested order; and (d) each Agreement constitutes a contract between the person and ASA and the shareholders of ASA with the intent that ASA's shareholders will be beneficiaries of and will have the status of parties to the Agreement so as to enable them to maintain actions at law or in equity within the United States or Bermuda. In addition, each Agreement of each officer and director of ASA will contain provisions similar to those contained in condition 21 below.[19]

6. So long as ASA is registered under the Act, ASA's charter and bylaws, together, will contain in substance the provisions required by Rule 7d–1(b)(8) under the Act, and neither the charter nor the bylaws will be changed or amended in any manner inconsistent with Rule 7d–1(b)(8) under the Act and the rules and regulations under the Act, unless authorized by the Commission.

7. ASA's Primary Custodian will not transfer any assets of ASA unless the instructions it receives from ASA include the written approval of ASA's Chief Compliance Officer. ASA will submit instructions relating to any transfer of assets to its Chief Compliance Officer, who will review them prior to the submission of any approved instructions to ASA's Primary Custodian. ASA's Chief Compliance Officer will not approve a transfer of assets if an agent, broker-dealer, or counterparty is an affiliated person of ASA or an affiliated person of any director, officer, or investment adviser of ASA, unless the transaction is of a type permitted by the Act or any regulation under the Act or specifically permitted by order of exemption issued under the Act. In addition to providing any other information relevant to the Chief Compliance Officer's review, ASA will require each of its officers, directors, and investment advisers to transmit quarterly a list of affiliated persons or a statement that there has been no change since the last list so transmitted to ASA's Chief Compliance Officer. No person will qualify to serve as a director or officer of ASA until he or she has transmitted to ASA a list of his or her affiliated persons, as that term is defined in Section 2(a)(3) of the Act.

8. ASA will furnish to the Commission revisions, if any, to the list of persons affiliated with ASA that previously was furnished to the Commission concurrently with the filing of periodic reports required to be filed under the Act. Such revised lists will include persons affiliated with any future investment adviser or principal underwriter of ASA.

9. The Chief Executive Officer of ASA, a majority of the directors of ASA, a majority of the officers, and the Chief Compliance Officer of ASA will be both citizens and residents of the United States. ASA will maintain its principal executive office in the United States.

10. ASA will hold all of its shareholder meetings in the United States.

11. ASA will maintain in the United States a transfer agent for transfer of its shares, and a registrar for the registration of its shares.

12. ASA will file, and will cause each of its present or future directors, officers, or investment advisers who is not a resident of the United States to file with the Commission irrevocable designation of CT Corp as an agent in the United States to accept service of process in any suit, action, or proceeding before the Commission or any appropriate court to enforce the provisions of the laws administered by the Commission, or to enforce any right or liability based upon ASA's charter or bylaws, contracts, or the respective undertakings and agreements of any of these persons required by the terms and conditions of the requested order, or which alleges a liability on the part of any of these persons arising out of their services, acts, or transactions relating to ASA. Further, ASA will designate CT Corp as U.S. Service Agent in the same city in which ASA's Primary Custodian is located.

13. After receipt of the requested order, ASA will file with the Commission (a) a copy of each subcustodian agreement, if that subcustodian agreement irrevocably designates CT Corp as an agent in the United States to accept service of process in any Proceeding before the Commission or any appropriate court to enforce the provisions of the laws administered by the Commission in connection with the subcustodian agreement, or to enforce any right or liability (''Liability'') based on the subcustodian agreement or which alleges a liability on the part of the subcustodian arising out of its services, acts, or transactions under the subcustodian agreement relating to ASA's assets; and (b) a copy of each subcustodian agreement that does not contain one or more provisions described in clause (a), along with a written explanation as to why ASA determined that it was nonetheless appropriate to use that subcustodian notwithstanding the lack of that provision or those provisions. This

[19] ASA acknowledges that: (a) every agreement and undertaking of ASA, its officers, directors, investment adviser, and principal underwriters contained in the application constitutes (i) inducements to the Commission for the issuance and continuance in effect of the requested order, and (ii) a contract among ASA, the Commission, and ASA's shareholders with the same intent as set forth in condition 5 above; and (b) the failure by ASA or any of the persons listed above to comply with any of the agreements or undertakings, unless permitted by the Commission, will constitute a violation of the requested order.

filing requirement will automatically terminate upon a subcustodian ceasing to hold ASA's assets, except as to a Proceeding or a Liability based on an action or inaction of the subcustodian prior to the subcustodian having ceased holding ASA's assets.

14. ASA will perform every action and thing necessary to cause and assist the custodian of its assets to distribute the same, or the proceeds, if the Commission or a court of competent jurisdiction will have so directed by final order.[20] ASA also will perform every action and thing necessary to cause and assist its shareholders or the Commission to collect (a) any monetary amount specified in a Commission order or (b) a final judgment entered by a court of competent jurisdiction. ASA will assist the Commission in enforcing temporary and preliminary injunctions and other orders entered by a court of competent jurisdiction, including ''freeze'' orders that would direct the company to retain specified funds pending a final disposition of a Commission case. To this end, ASA will agree, and will have the right under its agreement with the Primary Custodian, to instruct the Primary Custodian to freeze specified assets of ASA for a short period of time at the request of the Commission, pending the Commission's application for a formal court order freezing those assets. During this period, ASA will repatriate any cash or cash equivalents from frozen accounts, pending final disposition of the case. Further, ASA's agreement with its Primary Custodian will include a provision that disputes concerning the implementation of any asset freeze are under the jurisdiction of the U.S. courts. As soon as practicable, ASA and its Primary Custodian will notify an eligible foreign custodian or eligible securities depository of any court-ordered asset freeze.

15. ASA stipulates that personal jurisdiction exists in any Commission action brought against ASA in the United States and agrees to waive any defense of *forum non conveniens* to any Commission action.

16. ASA will take all steps necessary to ensure that it will be listed on the NYSE, including the publishing of financial statements and other information required by the NYSE for the benefit of holders of the shares listed on the NYSE and the performance of all the covenants contained in its listing agreement.

17. The Commission, in its discretion, may revoke its order permitting registration of ASA and the public offering of its securities if the Commission finds, after notice and opportunity for hearing, that there has been a violation of the requested order or the Act and may determine whether distribution of ASA's assets is necessary or appropriate in the interests of investors and may so direct.

18. ASA waives any counsel fees to which it may be entitled and waives security for costs in any action brought against it in Bermuda by any shareholder based on its charter or bylaws or any of the undertakings and agreements contained in the application. ASA will cause each of its present or future directors who is a non-resident of the United States to make similar waivers.

19. ASA will promptly notify the Commission in the event that there is any change in Bermudian law that will be contrary to any provision of the Act or detrimental to or inconsistent with the protection afforded by the undertakings and agreements contained in the application.

20. Any shareholder of ASA or the Commission, on its own motion or on request of any of ASA's shareholders, will have the right to initiate a proceeding: (a) before the Commission for the revocation of the order permitting registration of ASA; or (b) before a court of competent jurisdiction for the liquidation of ASA and a distribution of its assets to its shareholders and creditors. The court may enter the order in the event that it finds, after notice and opportunity for hearing, that ASA, its officers, directors, investment adviser, or principal underwriter has violated any provision of the Act or the requested order.

21. Any shareholder of ASA will have the right to bring suit at law or equity, in any court of the United States or Bermuda having jurisdiction over ASA, its assets, or any of its officers or directors to enforce compliance by ASA, its officers and directors with any provision of ASA's charter or bylaws, the Act, the rules under the Act, or the undertakings and agreements required by the conditions of the requested order, insofar as applicable to these persons. The court may appoint a trustee or receiver of ASA with all powers necessary to implement the purposes of the suit, including the administration of the estate, the collection of corporate property including choses-in-action, and distribution of ASA's assets to its creditors and shareholders. ASA and its officers and directors waive any objection they may be entitled to raise and any right they may have to object to the power and right of any shareholder of ASA to bring such suit, reserving, however, their right to maintain that they have complied with these provisions, undertakings and agreements, and otherwise to dispute the suit on its merits. ASA and its officers and directors also agree that any final judgment or decree of any U.S. court may be granted full faith and credit by a court of competent jurisdiction of Bermuda and consent that the Bermudian court may enter judgment or decree on ASA at the request of any shareholder, receiver, or trustee of ASA.

22. ASA will settle its purchases and sales of portfolio securities in the United States by use of the mails or means of interstate commerce, except for: (a) purchases and sales on an ''established securities exchange'' (defined as a national securities exchange as defined in Section 2(a)(26) of the Act, the JSE, the HKSE, the LSE, the Tokyo Stock Exchange, the TSE, the ASX, and the SIX Swiss Exchange (collectively the ''Established Exchanges'')) and (b) purchases and sales, through its custodian or its custodian's agent, in South Africa of South African Treasury Bills from or to the South African Treasury or South African Reserve Bank securities, or CSD-eligible securities. Assets purchased on the JSE, the HKSE, the LSE, the TSE, and the ASX will be maintained as provided for in condition 25 below. Assets purchased on the Tokyo Stock Exchange and the SIX Swiss Exchange will be maintained in the United States with ASA's custodian, unless prohibited by law or regulation or financially impracticable as provided in condition 26 below.

23. Notwithstanding condition 22, ASA may, through its custodian or its custodian's agent, exercise in South Africa, Hong Kong, the United Kingdom, Canada, or Australia the rights issued to it as a shareholder of other companies for the purchase of securities, provided that, in the case of each such exercise, (i) the rights so exercised are offered to ASA as a shareholder in another company on the same basis as all other holders of the class or classes of shares of such other company to whom such rights are offered, (ii) the rights so exercised do not exceed 10% of the total amount of such rights so offered, and (iii) the securities purchased pursuant to such exercise, or securities of the same class, are listed on the JSE, the HKSE, the LSE, the TSE, or the ASX, or application has been made to such exchange for the listing thereon of such securities, or it

[20] A court of competent jurisdiction means any U.S. federal court that has jurisdiction to issue such an order.

has been publicly announced that application will be made to such exchange for the listing thereon of such securities.

24. Contracts of ASA, other than those executed on an Established Exchange which do not involve affiliated persons, will provide that: (a) the contracts, irrespective of the place of their execution or performance, will be performed in accordance with the requirements of the Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, each as amended, if the subject matter of the contracts is within the purview of these Acts; and (b) in effecting the purchase or sale of assets, the parties to the contracts will utilize the U.S. mails or means of interstate commerce.

25. ASA will keep at least 20% of its assets in the United States in the custody of a U.S. bank. ASA's remaining assets will be kept in the custody of (a) an eligible foreign custodian, as defined in rule 17f–5 under the Act, in South Africa, Hong Kong, the United Kingdom, Canada, or Australia; or (b) an eligible securities depository, as defined in rule 17f–7 under the Act, in South Africa, Hong Kong, the United Kingdom, Canada, or Australia.

26. If removal of securities purchased on the Tokyo Stock Exchange and the SIX Swiss Exchange becomes either prohibited by law or regulation or financially impracticable, up to 5% of ASA's assets may be held by an eligible foreign custodian or overseas branch of ASA's custodian in each of Japan and Switzerland.

27. ASA will withdraw its assets from the care of a subcustodian as soon as practicable, and in any event within 180 days of the date when a majority of the Board makes the determination that a particular subcustodian may no longer be considered eligible under rule 17f–5 under the Act or that continuance of the subcustodian arrangement would not be consistent with the best interests of ASA and its shareholders.

28. ASA will cause its custodian to enter into an agreement (to be filed by ASA with the Commission when the custodian commences service to ASA), which will provide that the custodian agrees: (a) To comply with the Act and the rules of the Commission under the Act and the undertakings and agreements contained in the application as applicable to the custodian and as each may be amended from time to time, as applicable to the custodian; (b) to do nothing inconsistent with the undertakings and agreements contained in the application, the provisions of the Act, or the rules under the Act; and (c) that the undertakings described in (a) and (b) above constitute representations and inducements to the Commission to issue the requested order.[21]

29. So long as ASA is registered under the Act, ASA's custody contract with its custodian will provide that the custodian will: (a) Consummate all purchases and sales of securities by ASA through the delivery of securities and receipt of cash, or vice versa as the case may be, within the United States, except for (i) purchases and sales on the Established Exchanges, and (ii) purchases and sales, through ASA's custodian or custodian's agent, in South Africa of South African Treasury Bills from or to the South African Treasury, South African Reserve Bank securities, or CSD-eligible securities; and (b) distribute ASA's assets, or the proceeds thereof, to ASA's creditors and shareholders, upon service upon the custodian of an order of the Commission or court directing such distribution as provided in conditions 17, 20, and 30.

30. With respect to an alleged violation of the Act or the requested order by ASA's custodian, eligible foreign custodian, or eligible securities depository, the Commission, on its own motion, will have the right to initiate a proceeding: (a) Before the Commission for the revocation of the order permitting registration of ASA; or (b) before a court of competent jurisdiction for the liquidation of ASA and a distribution of its assets to its shareholders and creditors. The court may enter the order in the event that it finds, after notice and opportunity for hearing, that ASA's custodian has violated any provision of the Act or the requested order.

31. The Chief Compliance Officer, as defined in Rule 38a–l(a)(4) under the Act, shall prepare a report, as part of the annual report to the Board, that evaluates ASA's compliance with the terms and conditions of the Application and the procedures established to achieve such compliance. The Chief Compliance Officer will also annually file a certification pursuant to item 77Q3 of Form N–SAR as such Form may be revised, amended or superseded from time to time, that certifies that ASA and the Board have established procedures reasonably designed to achieve compliance with Conditions 22, 25 and 26 regarding location of ASA's assets. Additionally, ASA's independent public accountants, in connection with their audit examination of ASA, will review the operations and procedures pertaining to the location of ASA's assets and custody arrangements for compliance with the conditions of the Application, and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–12797 Filed 5–29–13; 8:45 am]

BILLING CODE 8011–01–P

[21] ASA acknowledges that: (a) Every agreement and undertaking of ASA and its custodian contained in the application constitutes (i) inducements to the Commission for the issuance and continuance in effect of the requested order, and (ii) a contract among ASA, the Commission and ASA's shareholders; and (b) the failure by ASA or the custodian to comply with any of the agreements or undertakings, unless permitted by the Commission, will constitute a violation of the requested order.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69635; File No. SR–MSRB–2013–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving a Proposed Rule Change To Amend MSRB Rule G–39, on Telemarketing

May 24, 2013.

I. Introduction

On February 11, 2013, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend MSRB Rule G–39, on telemarketing. Specifically, the proposed rule change would amend certain provisions of MSRB Rule G–39 and add new provisions to make the rule substantially similar to the telemarketing rules of the Federal Trade Commission (''FTC''). The proposed rule change was published for comment in the **Federal Register** on March 4, 2013.[3] The Commission received no comments on the proposed rule change. The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2013-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room. This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 68987 (Feb. 16, 2013), 78 FR 14144 (Mar. 4, 2013) (''Notice''). The comment period closed on March 25, 2013.

II. Description of the Proposal

As stated in the Notice, the proposed rule change would amend MSRB Rule G–39, on telemarketing, to include provisions substantially similar to those contained in the FTC rules that prohibit deceptive and other abusive telemarketing acts or practices.[4] Rule G–39 currently requires brokers, dealers, and municipal securities dealers (''dealers'') to, among other things, maintain do-not-call lists and limit the hours of telephone solicitations. In 1996, the SEC directed the MSRB (along with the other self-regulatory organizations) to enact a telemarketing rule in accordance with the Prevention Act.[5] The Prevention Act requires the Commission to promulgate, or direct any national securities exchange or registered national securities association (collectively, ''self-regulatory organizations'' or ''SROs'') to promulgate, rules substantially similar to the FTC rules, to prohibit deceptive and other abusive telemarketing acts or practices, unless the Commission determines either that the rules are not necessary or appropriate for the protection of investors or the maintenance of fair and orderly markets, or that existing federal securities laws or Commission rules already provide for such protection.[6]

In 1997, the SEC determined that telemarketing rules promulgated and expected to be promulgated by the SROs, together with the other rules of the SROs, the federal securities laws, and the SEC's rules thereunder, satisfied the requirements of the Prevention Act because, at the time, the applicable provisions of those laws and rules were substantially similar to the Telemarketing Sales Rule.[7] Since 1997, the FTC has amended its telemarketing rules in light of changing telemarketing practices and technology.[8]

In May 2011, Commission staff directed the MSRB (along with all other SROs) to conduct a review of its telemarketing rule and propose rule amendments that provide protections that are at least as strong as those provided by the FTC's telemarketing rules.[9] Commission staff had concerns ''that the [self-regulatory organization] rules overall have not kept pace with the FTC's rules, and thus may no longer meet the standards of the Prevention Act.'' [10]

The proposed rule amendments, as directed by the Commission staff, would amend and adopt provisions in Rule G–39 that would be substantially similar to the FTC's current rules that prohibit deceptive and other abusive telemarketing acts or practices as described below.[11]

General Telemarketing Requirements

Proposed Rule G–39(a)(iv) would remind dealers that engage in telemarketing that they are also subject to the requirements of relevant state and federal laws and rules, including the Prevention Act, the Telephone Consumer Protection Act,[12] and the rules of the Federal Communications Commission relating to telemarketing practices and the rights of telephone consumers.[13]

Maintenance of Do-Not-Call Lists

Proposed Rule G–39(d)(vi) would maintain the requirement in Rule G–39 that a dealer making telemarketing calls must maintain a record of a caller's request not to receive further calls. The amendment, however, would delete the requirement that a dealer honor a firm-specific do-not-call request for five years from the time the request is made. This amendment makes this provision consistent with the FTC's Telemarketing Sales Rule because the time for which the firm-specific opt-out must be honored under the FTC's Telemarketing Sales Rule [14] is indefinite.[15] Additionally, the proposed rule change would clarify that the record of do-not-call requests must be permanent.

Outsourcing Telemarketing

MSRB Rule G–39(f) would continue to state that, if a dealer uses another entity to perform telemarketing services on its behalf, the dealer remains responsible for ensuring compliance with all provisions of the rule. The proposed amendments would clarify that dealers must consider whether the entity or person that a dealer uses for outsourcing, is appropriately registered or licensed, where required.

Caller Identification Information

Proposed Rule G–39(g) would provide that dealers engaging in telemarketing must transmit caller identification information [16] and are explicitly prohibited from blocking caller identification information. The telephone number provided would have to permit any person to make a do-not-call request during regular business hours. These provisions are similar to the caller identification provision in the FTC rules.[17]

Unencrypted Consumer Account Numbers

Proposed Rule G–39(h) would prohibit a dealer from disclosing or receiving, for consideration, unencrypted consumer account numbers for use in telemarketing. The MSRB believes that this proposed provision would be substantially similar to the FTC's provision regarding unencrypted consumer account numbers.[18] Additionally, the proposed rule change would define ''unencrypted'' to include not only complete, visible account numbers, whether provided in lists or singly, but also encrypted information with a key to its decryption. The MSRB believes that this approach is substantially similar to the approach taken by the FTC.[19]

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[4] The FTC initially adopted its rules prohibiting deceptive and other abusive telemarketing acts or practices (the ''Telemarketing Sales Rule,'' codified at 16 CFR 310.1–9) in 1995 under the Telemarketing and Consumer Fraud and Abuse Prevention Act (''Prevention Act'') codified at 15 U.S.C. 6101–6108. *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842 (Aug. 23, 1995). The Telemarketing Sales Rule has been amended since 1995, prompting the SEC's request for the MSRB to review its telemarketing rule. *See* amendments cited *infra* note 8.

[5] *See* Prevention Act *supra* note 4.

[6] *See* 15 U.S.C. 6102.

[7] *See Telemarketing and Consumer Fraud and Abuse Prevention Act; Determination that No Additional Rulemaking Required,* Exchange Act Release No. 38480 (Apr. 7, 1997), 62 FR 18666 (Apr. 16, 1997). The Commission also determined that some provisions of the FTC's telemarketing rules related to areas already extensively regulated by existing securities laws or activities not applicable to securities transactions. *Id.* at 62 FR 18667–69.

[8] *See, e.g.,* FTC, *Telemarketing Sales Rule,* 73 FR 51164 (Aug. 29, 2008) (amendments to the Telemarketing Sales Rule relating to prerecorded messages and call abandonments); and FTC, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) (amendments to the Telemarketing Sales Rule establishing requirements for, among other things, sellers and telemarketers to participate in the national do-not-call registry).

[9] *See* Letter from Robert W. Cook, Director, Division of Trading and Markets, SEC, to Michael G. Bartolotta, then Chairman of the Board of Directors of the MSRB, dated May 10, 2011 (the ''Cook Letter''). SEC staff also asked the MSRB to coordinate with the Financial Industry Regulatory Authority (''FINRA'') regarding proposed telemarketing rule amendments.

[10] *Id.*

[11] The MSRB believes that proposed amended Rule G–39 also would be similar in most material respects to FINRA Rule 3230 (Telemarketing). The material differences between FINRA Rule 3230 and proposed Rule G–39 are described below.

[12] *See* 47 U.S.C. 227.

[13] *See* 47 CFR 64.1200.

[14] *See* 16 CFR 310.4.

[15] *See* the Cook Letter.

[16] Caller identification information includes the telephone number and, when made available by the broker, dealer, or municipal securities dealer's telephone carrier, the name of the broker, dealer, or municipal securities dealer.

[17] *See* 16 CFR 310.4(a)(8); *see also* FINRA Rule 3230(g).

[18] *See* 16 CFR 310.4(a)(6); *see also* FINRA Rule 3230(h). The FTC provided a discussion of the provision when it was adopted pursuant to the Prevention Act. *See* FTC, *Telemarketing Sales Rule,* 68 FR 4580, 4615–16 (Jan. 29, 2003).

[19] *See Id.* at 4616.

Submission of Billing Information

Proposed Rule G–39(i) would provide that, for any telemarketing transaction, a dealer must obtain the express informed consent of the person to be charged and to be charged using the identified account. If the telemarketing transaction involves preacquired account information [20] and a free-to-pay conversion [21] feature, the dealer would have to: (1) Obtain from the customer, at a minimum, the last four digits of the account number to be charged; (2) obtain from the customer an express agreement to be charged and to be charged using the identified account number; and (3) make and maintain an audio recording of the entire telemarketing transaction. For any other telemarketing transaction involving preacquired account information, the dealer would have to: (1) Identify the account to be charged with sufficient specificity for the customer to understand what account will be charged; and (2) obtain from the customer an express agreement to be charged and to be charged using the identified account number. The MSRB believes that these proposed provisions would be substantially similar to the FTC's provisions regarding the submission of billing information.[22] Although the MSRB expressed the view that some of these provisions may not be directly applicable to securities transactions generally, and, more specifically, municipal securities transactions, the proposed rule is substantially similar to FINRA's telemarketing rule, which includes similar provisions.[23]

Abandoned Calls

Proposed Rule G–39(j) would prohibit a dealer from abandoning [24] any outbound telephone call. The abandoned calls prohibition would be subject to a ''safe harbor'' under proposed subparagraph (j)(ii) that would require the dealer: (1) To employ technology that ensures abandonment of no more than three percent of all calls answered by a person, measured over the duration of a single calling campaign, if less than 30 days, or separately over each successive 30-day period or portion thereof that the campaign continues; (2) for each outbound telephone call placed, to allow the telephone to ring for at least 15 seconds or four rings before disconnecting an unanswered call; (3) whenever a dealer is not available to speak with the person answering the outbound telephone call within two seconds after the person's completed greeting, to promptly play a recorded message stating the name and telephone number of the dealer on whose behalf the call was placed; and (4) to maintain records establishing compliance with the ''safe harbor.'' The MSRB believes that these proposed provisions would be substantially similar to the FTC's provisions regarding abandoned calls.[25]

Prerecorded Messages

Proposed Rule G–39(k) would prohibit a broker, dealer, or municipal securities dealer from initiating any outbound telephone call that delivers a prerecorded message without a person's express written agreement [26] to receive such calls. The proposed rule change also would require that all prerecorded outbound telephone calls provide specified opt-out mechanisms so that a person can opt out of future calls. The prohibition would not apply to a prerecorded message permitted for compliance with the ''safe harbor'' for abandoned calls under proposed subparagraph (j)(ii). The MSRB believes that the proposed provisions would be substantially similar to the FTC's provisions regarding prerecorded messages.[27]

Credit Card Laundering

Except as expressly permitted by the applicable credit card system, proposed Rule G–39(l) would prohibit a dealer from: (1) Presenting to or depositing into, the credit card system [28] for payment, a credit card sales draft [29] generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder [30] and the dealer; [31] (2) employing, soliciting, or otherwise causing a merchant,[32] or an employee,

[20] The term ''preacquired account information'' would mean any information that enables a dealer to cause a charge to be placed against a customer's or donor's account without obtaining the account number directly from the customer or donor during the telemarketing transaction pursuant to which the account will be charged. *See* proposed Rule G–39(n)(xix).

[21] The term ''free-to-pay conversion'' would mean, in an offer or agreement to sell or provide any goods or services, a provision under which a customer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does not take affirmative action to cancel before the end of that period. *See* proposed Rule G–39(n)(xiii).

[22] *See* 16 CFR 310.4(a)(7); *see also* FINRA Rule 3230(i). The FTC provided a discussion of the provision when it was adopted. *See* FTC, *Telemarketing Sales Rule,* 68 FR 4580, 4616–23 (Jan. 29, 2003).

[23] *See* FINRA Rule 3230(i). *See also* the Cook Letter.

[24] Under the proposed amended rule, an outbound call would be ''abandoned'' if a called person answers it and the call is not connected to a dealer within two seconds of the called person's completed greeting.

[25] *See* 16 CFR 310.4(b)(1)(iv) and (b)(4); *see also* FINRA Rule 3230(j) (Throughout FINRA Rule 3230(j) and (k), referred to in note 30 *infra,* FINRA uses the term ''telemarketing call'' where the proposed MSRB rule would use the term ''outbound telephone call.'' The MSRB believes that its proposed terminology is substantially similar because proposed MSRB Rule G–39(n)(xvi) defines ''outbound telephone call'' as a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution from a donor.). The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act. *See* FTC, *Telemarketing Sales Rule,* 68 FR 4580, 4641 (Jan. 29, 2003).

[26] The express written agreement would have to: (a) Have been obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the dealer to place prerecorded calls to such person; (b) have been obtained without requiring, directly or indirectly, that the agreement be executed as a condition of opening an account or purchasing any good or service; (c) evidence the willingness of the called person to receive calls that deliver prerecorded messages by or on behalf of the dealer; and (d) include the person's telephone number and signature (which may be obtained electronically under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, *et seq.* (''E-Sign Act'')).

[27] *See* 16 CFR 310.4(b)(1)(v); *see also* FINRA Rule 3230(k). The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act. *See* FTC, *Telemarketing Sales Rule,* 73 FR 51164, 51165 (Aug. 29, 2008).

[28] The term ''credit card system'' would mean any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system. The term ''credit card'' would mean any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit. The term ''credit'' would mean the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment. *See* proposed Rule G–39(n)(vii), G–39(n)(viii), and G–39(n)(x), respectively.

[29] The term ''credit card sales draft'' would mean any record or evidence of a credit card transaction. *See* proposed Rule G–39(n)(ix).

[30] The term ''cardholder'' would mean a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued. *See* proposed Rule G–39(n)(vi).

[31] The Commission staff asked the MSRB to remind its registrants that extending or arranging for the extension of credit to purchase securities raises a number of issues under the federal securities laws, including whether the person extending or arranging credit needs to register as a broker-dealer.

[32] The term ''merchant'' would mean a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution. *See* proposed Rule G–39(n)(xiv). The term ''acquirer'' would mean a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value. *See* proposed Rule G–39(n)(ii). A ''charitable contribution'' would mean any donation or gift of money or any other thing of value, for example, a transfer to a pooled income fund. *See* proposed Rule G–39(n)(iii).

representative or agent of the merchant, to present to or to deposit into the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or (3) obtaining access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement [33] or the applicable credit card system. The MSRB believes that these proposed provisions would be substantially similar to the FTC's provisions regarding credit card laundering.[34] Although the MSRB expressed the view that some of these provisions may not be directly applicable to securities transactions generally, and, more specifically, municipal securities transactions, the proposed rule is substantially similar to FINRA's telemarketing rule, which includes these provisions.[35]

Exemption

Proposed Rule G–39(m) would exempt business-to-business calls from most of the provisions of the amended rule. Specifically, the exemption would provide that outbound telephone calls from a dealer to a business entity, government, or political subdivision, agency, or instrumentality of a government are exempt from the rule, other than sections (a)(ii) and (d)(i)–(iii), (v) and (vi). The sections of the proposed rule that would still apply to business-to-business calls relate to the firm-specific do-not-call list and procedures related to (i) maintaining a do-not-call list, (ii) training personnel on the existence and use of the do-not-call list, (iii) the recording and honoring of do-not-call requests, (iv) application to affiliated persons or entities, and (v) maintenance of do-not-call lists. FINRA's telemarketing rule, Rule 3230, does not include an express exemption for business-to-business calls.[36] The FTC's Telemarketing Sales Rule, however, includes an exemption from all of its provisions for telephone calls between a telemarketer and any business, with a caveat that most of the rule continues to apply to sellers and telemarketers of nondurable office or cleaning supplies.[37]

When initially adopting the exception for business-to-business calls, the FTC indicated that it believed Congress did not intend that every business use of the telephone be covered by the FTC's Telemarketing Sales Rule.[38] The only type of business-to-business calls that are subject to the Telemarketing Sales Rule are calls to induce the retail sale of nondurable office or cleaning supplies.[39]

The MSRB believes that exempting business-to-business calls pertaining to municipal securities from Rule G–39 would be consistent with the FTC's general approach to exempting business-to-business calls because, unlike sellers of nondurable office or cleaning supplies, dealers are subject to an entire regulatory regime, which includes the federal securities laws, the fair practice rules of the MSRB, and examinations and enforcement by FINRA, banking regulators and the SEC. Nevertheless, the provisions of proposed Rule G–39 pertaining to the firm-specific do-not-call list and related procedures would apply to business-to-business calls. Dealers are already required to maintain a firm-specific do-not-call list for requests that are not related to business-to-business calls; therefore, the MSRB believes that requiring such a list with respect to business-to-business calls should not create an undue burden. Moreover, the MSRB believes that it would be reasonable to require dealers to honor the wishes of businesses that do not wish to be solicited by telephone by requiring dealers to maintain a list of such do-not-call requests. The MSRB believes that this approach also would be consistent with FINRA's telemarketing rule and related guidance.[40]

Definitions

Proposed Rule G–39(n) would include the following definitions, which the MSRB believes would be substantially similar to the corresponding definitions in the FTC's Telemarketing Sales Rule: [41] ''acquirer,'' ''billing information,'' ''caller identification service,'' ''cardholder,'' ''charitable contribution,'' ''credit,'' ''credit card,'' ''credit card sales draft,'' ''credit card system,'' ''customer,'' ''donor,'' ''free-to-pay conversion,'' ''merchant,'' ''merchant agreement,'' ''outbound telephone call,'' ''preacquired account information'' and ''telemarketer.'' [42] Additionally, the proposed rule change would delete the reference to ''telephone solicitation.''

Proposed Rule G–39(n) also would include definitions of ''person'' and ''telemarketing'' that differ substantively from the FTC's and FINRA's definitions of these terms but that reflect MSRB's jurisdictional scope. While the definition of ''person'' in proposed MSRB Rule G–39(n)(xvii) tracks the definition in the FTC and FINRA rules to include any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity, it further defines a ''person'' to include a government, or political subdivision, agency, or instrumentality of a government. These entities are included in the proposed definition because dealers often solicit these types of entities. While the MSRB believes that the proposed definition of ''telemarketing'' would be substantially similar to the FTC and FINRA rules, its scope would be limited in MSRB Rule G–39(n)(xxi) to calls ''pertaining to municipal securities or municipal financial products'' since the MSRB only promulgates rules pertaining to the municipal securities activities of dealers. The MSRB intends the

[33] The term ''merchant agreement'' would mean a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution. *See* proposed Rule G–39(n)(xv).

[34] *See* 16 CFR 310.3(c); *see also* FINRA Rule 3230(l). The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act. *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842, 43852 (Aug. 23, 1995).

[35] *See* FINRA Rule 3230(l); *see also* the Cook Letter.

[36] *See* FINRA Rule 3230.

[37] *See* 16 CFR 310.6(b)(7).

[38] *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842, 43861 (Aug. 23, 1995).

[39] *See* 16 CFR 310.6(b)(7). Sellers of these products are treated differently because the FTC believes that the conduct prohibitions and affirmative disclosures mandated by the Telemarketing Sales Rule ''are crucial to protect businesses—particularly small businesses and nonprofit organizations—from the harsh practices of some unscrupulous sellers of these products.'' *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842, 43862 (Aug. 23, 1995). Additionally, the FTC's enforcement experience against deceptive telemarketers indicated that office and cleaning supplies had been ''by far the most significant business-to-business problem area.'' *Id.* at 43861. When adopting its Telemarketing Sales Rule in 1995, the FTC indicated that it would consider expanding the list of business-to-business telemarketing activities excluded from the exemption if additional business-to-business telemarketing activities became problems after the Telemarketing Sales Rule became effective. *Id.* To date, however, the only type of business-to-business telemarketing activity that is excluded from the exemption is the retail sale of nondurable office or cleaning supplies.

[40] *See* FINRA Rule 3230; *see also* FINRA guidance dated November 1, 1995, *Requirements of member firms in maintaining do-not-call lists under NASD Rule 3110* (''[M]embers who are involved in telemarketing, and whom make cold calls to the public, [must] . . . establish and maintain a do-not-call list notwithstanding whether [the member] contact[s] businesses or residences.'').

[41] The MSRB believes that these definitions are also substantially similar to definitions in FINRA Rule 3230, with the exception of ''telemarketer,'' which is not defined in FINRA's rule.

[42] *See* proposed Rule G–39(n)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi), (xiii), (xiv), (xv), (xvi), (xix), and (xx).

limitation in the definition to correspond with the limits of the MSRB's rulemaking authority. As described earlier, the MSRB has implemented rules to address sales practices by dealers that cover their municipal securities activities, including sales by telephone.

Technical and Conforming Changes

The proposed revisions to MSRB Rule G–39 would make a number of technical and conforming changes. First, the proposed revisions would amend Rule G–39 to delete the phrase ''or person associated with a broker, dealer or municipal securities dealer'' throughout the rule since associated persons are included in the definition of ''broker, dealer or municipal securities dealer'' in the MSRB rules.[43] Second, the proposed revisions would renumber and make technical changes to the terms ''account activity,'' ''broker, dealer or municipal securities dealer of record,'' ''established business relationship,'' and ''personal relationship.'' Third, the proposed revisions would amend paragraphs (a), (b), (c), (c)(iv), and (e) by replacing the term ''telephone solicitation'' with the term ''outbound telephone call.'' Fourth, the proposed revisions would amend paragraphs (d)(iii), (d)(iv), and (d)(vi) by replacing the term ''telemarketing'' with the term ''outbound telephone.'' Fifth, the proposed revisions would update a reference to an ''established business relationship'' in subparagraph (a)(1)(A). Finally, the proposed rule change would amend paragraph (b)(ii) to clarify that a signed, written agreement may be obtained electronically under the E-Sign Act.

The MSRB requested an effective date for the proposed rule change of 90 days following the date of SEC approval.

III. Summary of Comments Received

As previously noted, the Commission received no comments on the proposed rule change.

IV. Commission's Findings

The Commission has carefully reviewed the proposed rule change, and, based on its review of the record, finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.[44] In particular, the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the MSRB's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.[45]

More specifically, the Commission finds that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act because it should protect investors and the public interest by preventing dealers from engaging in fraudulent and manipulative acts and practices, particularly deceptive and other abusive telemarketing acts or practices. The Commission also finds that the proposed rule is consistent with the FTC's and FINRA's telemarketing rules, which include provisions similar to those described above. Accordingly, the proposed rule change should foster cooperation and coordination with FINRA members and other persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, and remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder. As requested by the MSRB, the proposed rule change will become effective 90 days following the date of SEC approval.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[46] that the proposed rule change (SR–MSRB–2013–02) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Jill M. Peterson,

Assistant Secretary.

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[43] *See* MSRB Rule D–11 which states: ''Unless the context otherwise requires or a rule of the Board otherwise specifically provides, the terms 'broker,' 'dealer,' . . . 'municipal securities dealer,' . . . shall refer to and include their respective associated persons.''

[44] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[45] 15 U.S.C. 78o–4(b)(2)(C).

[46] 15 U.S.C. 78s(b)(2).

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69634; File No. SR–NYSEArca–2013–56]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of the PowerShares China A-Share Portfolio Under NYSE Arca Equities Rule 8.600

May 23, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 21, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') 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 list and trade the shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): PowerShares China A-Share Portfolio. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the shares (''Shares'') of the PowerShares China A-Share Portfolio (''Fund'') under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares [4] on the Exchange.[5] The Shares will be offered by PowerShares Actively Managed Exchange-Traded Fund Trust (the ''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[6]

The investment adviser to the Fund will be Invesco PowerShares Capital Management LLC (the ''Adviser''). Invesco Distributors, Inc. (the ''Distributor'') will serve as the distributor of the Fund Shares. The Bank of New York Mellon Corporation (the ''Administrator,'' ''Transfer Agent'' or ''Custodian'') will serve as administrator, custodian and transfer agent for the Fund.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[7] Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer but is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Principal Investment Strategies

According to the Registration Statement, the Fund's investment objective will be to seek to provide long term capital appreciation. The Fund will seek to achieve its investment objective by using a quantitative, rules-based strategy designed to provide returns that correspond to the performance of the FTSE China A50 Index (the ''Benchmark''). The Benchmark is designed for investors who seek exposure to China's domestic market through ''A-Shares,'' which are securities of companies that are incorporated in mainland China and that trade on the Shanghai Stock Exchange or the Shenzhen Stock Exchange. The Benchmark is comprised of the securities of the largest 50 A-Share companies, as determined by full market capitalization, listed on the Shanghai and Shenzhen Stock Exchanges.

Under normal circumstances,[8] the Fund generally will invest at least 80% of its net assets in a combination of investments whose collective performance is designed to correspond to the performance of the Benchmark. These investments will be (i) futures contracts on the Benchmark; (ii) exchange-traded funds (''ETFs'') that provide exposure to the China A-Shares market (''Underlying ETFs'') [9]; and (iii)

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission approved NYSE Arca Equities Rule 8.600 and the listing and trading of certain funds of the PowerShares Actively Managed Exchange-Traded Fund Trust on the Exchange pursuant to Rule 8.600 in Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca–2008–25). The Commission also previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR–NYSEArca–2010–57) (order approving listing of AdvisorShares WCM/BNY Mellon Focused Growth ADR ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving listing of Cambria Global Tactical ETF); 66343 (February 7, 2012), 77 FR 7647 (February 13, 2012) (SR–NYSEArca–2011–85) (order approving listing of five SPDR SSgA ETFs); and 68158 (November 5, 2012), 77 FR 67412 (November 9, 2012) (SR–NYSEArca–2012–101) (order approving listing of PowerShares S&P 500 Downside Hedged Portfolio ETF).

[6] The Trust is registered under the 1940 Act. On April 20, 2012, the Trust filed with the Commission a post-effective amendment to Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–147622 and 811–22148) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28171 (February 27, 2008) (File No. 812–13386) (''Exemptive Order'').

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] The term ''under normal circumstances'' includes, but is not limited to, the absence of: extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[9] For purposes of this proposed rule change, Underlying ETFs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)) and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The Underlying ETFs all will be listed and traded in the U.S. on registered exchanges or the Stock Exchange of Hong Kong Limited (''HKSE''), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing

A-Shares included in the Benchmark, to the extent permissible under Chinese law. As described below, the Fund expects to invest its remaining assets in U.S. government securities, money market instruments (including repurchase agreements), cash and cash equivalent securities (*i.e.,* corporate commercial paper) to collateralize investments in futures contracts or for other purposes. Although the Fund will seek to provide returns that generally correspond to the performance of the Benchmark, the Fund will be actively managed by the Adviser and will not be designed to track the performance of any index.

According to the Registration Statement, ''A-Shares'' are shares of stock that are issued by companies incorporated in mainland China and that are traded in Renminbi on the Shanghai Stock Exchange or the Shenzhen Stock Exchange. Due to strict controls imposed by the Chinese government, the Fund currently cannot invest directly in A-Shares, which are available only to domestic Chinese investors and a limited pool of foreign investors, including foreign investors who have been approved as a Qualified Foreign Institutional Investor (''QFII'') by the China Securities Regulatory Commission (''CSRC'') and have obtained a QFII license. After obtaining a QFII license, a QFII applies to China's State Administration of Foreign Exchange for a specific aggregate dollar amount investment quota of A-Shares (the ''A-Share Quota'') in which the QFII can invest. In order for the Fund to invest directly in A-Shares, the Adviser would need to apply for a QFII license and obtain an A-Share Quota.

If the Adviser obtains a QFII license, the Fund may invest directly in A-Shares through the QFII license. There are no assurances that such a QFII license would be granted, or that such a license, if granted, would permit the Fund to purchase A-Shares in an amount necessary to provide the Fund with sufficient A-Shares exposure.

Because it currently cannot invest in A-Shares directly, the Fund will invest primarily in futures contracts on the Benchmark that provide exposure to the China A-Shares market. These futures contracts are listed on the Singapore Exchange (''SGX'').[10] By investing in futures contracts on the Benchmark, the Fund will have no direct ownership of the A-Shares of the companies included in the Benchmark, but the Fund will gain exposure to the performance of those companies.[11]

The Fund also may invest in Underlying ETFs listed on U.S. securities exchanges or on the HKSE that provide exposure to China A-Shares.

The Fund will invest in futures contracts on the Benchmark—specifically, in SGX-listed futures contracts—as a significant part of its investment strategy. Generally, futures contracts are a type of derivative whose value depends upon, or is derived from, the value of an underlying asset, reference rate or index. The Fund's use of futures contracts will be underpinned by investments in short-term, high quality U.S. Treasury Securities, money market instruments, cash and cash equivalent securities, as described below.[12] The Trust's Exemptive Order places no limit on the amount of derivatives in which the Fund can invest. The futures contracts will be used to simulate full investment in China A-Share securities. To the extent the Fund uses futures, it will do so only in accordance with Rule 4.5 of the Commodity Exchange Act (''CEA'').[13]

The Subsidiary

According to the Registration Statement, the Fund may seek to gain exposure to the A-Shares market through investments in a subsidiary organized in the Cayman Islands (the ''Subsidiary''), that in turn would make investments in futures contracts that provide exposure to China A-Shares. If utilized, the Subsidiary would be wholly-owned and controlled by the Fund, and its investments would be consolidated into the Fund's financial statements. Should the Fund invest in the Subsidiary, that investment may not exceed 25% of the Fund's total assets at each quarter end of the Fund's fiscal year. Further, should the Fund invest in the Subsidiary, it would be expected to provide the Fund with exposure to A-Share returns within the limits of the federal tax requirements applicable to investment companies, such as the Fund.

According to the Registration Statement, the Subsidiary would be able to invest in futures contracts that would provide exposure to A-Shares, as well in other investments that would serve as margin or collateral or otherwise support the Subsidiary's futures positions. The Subsidiary, accordingly, would be subject to the same general investment policies and restrictions as the Fund, except that unlike the Fund, which must invest in futures contracts in compliance with the requirements of Subchapter M of the Internal Revenue Code,[14] federal securities laws and the CEA, the Subsidiary may invest without limitation in futures. References to the investment strategies and risks of the Fund include the investment strategies and risks of the Subsidiary.

According to the Registration Statement, the Fund may utilize the Subsidiary, but is not required to do so. If it is utilized, the Subsidiary will not be registered under the 1940 Act. As an investor in the Subsidiary, the Fund, as the Subsidiary's sole shareholder, would not have the protections offered to investors in registered investment companies. However, because the Fund

Limited. Hong Kong Exchanges and Clearing Limited is a member of the Intermarket Surveillance Group (''ISG'').

[10] SGX is a member of the ISG. *See* note 28 and accompanying text, *infra.*

[11] According to the Registration Statement, futures contracts on the Benchmark were first approved for investment by U.S. investors by the Commodity Futures Trading Commission (''CFTC'') in January 2012. Futures contracts on the Benchmark have expirations ranging from the two nearest consecutive months, and March, June, September and December on a 1-year cycle, and provide investors the ability to invest based on their view of the future direction or movement of the Benchmark. FTSE International Limited (''FTSE'') reviews constituents in the Benchmark quarterly using data from the close of business on the Monday following the third Friday in February, May, August and November. FTSE will implement any constituent changes on the next trading day following the third Friday in March, June, September and December.

[12] With respect to certain kinds of futures entered into by the Fund that involve obligations to make future payments to third parties, under applicable federal securities laws, rules, and interpretations thereof, the Fund must ''set aside'' (referred to sometimes as ''asset segregation'') liquid assets, or engage in other measures to ''cover'' open positions with respect to such transactions. With respect to futures contracts that are not contractually required to ''cash-settle,'' the Fund must cover its open positions by setting aside liquid assets equal to the contracts' full, notional value. With respect to futures contracts that are contractually required to ''cash-settle,'' the Fund may set aside liquid assets in an amount equal to the Fund's daily marked-to-market (net) obligation rather than the notional value of the futures contract.

[13] 7 U.S.C. 1. As set forth in the Registration Statement, to the extent the Fund uses futures contracts, it will do so only in accordance with Rule 4.5 of the CEA. The Trust has filed a notice of eligibility for exclusion from the definition of the term ''commodity pool operator'' or ''CPO'' in accordance with Rule 4.5 of the CEA. Under amendments to Rule 4.5 adopted in February 2012, an investment adviser of a registered investment company may claim exclusion from registration as a CPO only if the registered investment company it advises uses futures contracts solely for ''bona fide hedging purposes'' or limits its use of futures contracts for non-bona fide hedging purposes in specified ways. Because the Fund does not expect to use futures contracts solely for ''bona fide hedging purposes,'' the Fund will be subject to rules that will require it to limit its use of positions in futures contracts in accordance with the requirements of amended Rule 4.5 unless the Adviser otherwise complies with CPO regulation. To the extent that the Fund is unable to rely on Rule 4.5, the Fund will be operated in accordance with CFTC rules; the Adviser already is registered as a CPO.

[14] 26 U.S.C. 851.

would wholly own and control the Subsidiary, and the Fund and Subsidiary would be managed by the Adviser, the Subsidiary would not take action contrary to the interests of the Fund or the Fund's shareholders. The Board of Trustees of the Trust (the ''Board'') has oversight responsibility for the investment activities of the Fund, including its investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. Also, in managing the Subsidiary's portfolio, the Adviser would be subject to the same investment restrictions and operational guidelines that apply to the management of the Fund. Changes in the laws of the United States, under which the Fund is organized, or of the Cayman Islands, under which the Subsidiary is organized, could result in the inability of the Fund or the Subsidiary to operate as described in this filing or in the Registration Statement and could negatively affect the Fund and its shareholders.

Other Investments

According to the Registration Statement, the Fund, under normal circumstances, may invest no more than 20% of its net assets in other investments such as money market instruments (including repurchase agreements, as described below), cash and cash equivalents to provide liquidity or to collateralize its investments in futures contracts. The instruments in which the Fund may invest include: (i) Short-term obligations issued by the U.S. Government [15]; (ii) short term negotiable obligations of commercial banks, fixed time deposits [16] and bankers' acceptances of U.S. and foreign banks and similar institutions; (iii) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc. or ''A–1+'' or ''A–1'' by Standard & Poor's or, if unrated, of comparable quality, as the Adviser of the Fund determines; and (iv) money market mutual funds.

The Fund may invest in the securities of other investment companies (including money market funds) beyond the limits permitted under the 1940 Act, subject to certain terms and conditions set forth in a Commission exemptive order issued pursuant to Section 12(d)(1)(J) of the 1940 Act.[17]

According to the Registration Statement, the Fund may enter into repurchase agreements, which are agreements pursuant to which securities are acquired by the Fund from a third party with the understanding that they will be repurchased by the seller at a fixed price on an agreed date. These agreements may be made with respect to any of the portfolio securities in which the Fund is authorized to invest. Repurchase agreements may be characterized as loans secured by the underlying securities. The Fund may enter into repurchase agreements with (i) member banks of the Federal Reserve System having total assets in excess of $500 million and (ii) securities dealers (''Qualified Institutions''). The Adviser will monitor the continued creditworthiness of Qualified Institutions.

According to the Registration Statement, the Fund may enter into reverse repurchase agreements, which involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing. The securities purchased with the funds obtained from the agreement and securities collateralizing the agreement will have maturity dates no later than the repayment date.

Investment Restrictions

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

According to the Registration Statement, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment). *The* Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity *if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities.* Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[18]

The Fund will not use futures for speculative purposes.

According to the Registration Statement, the Fund may not concentrate its investments (*i.e.,* invest more than 25% of the value of its net assets) in securities of issuers in any one industry or group of industries. This restriction does not apply to obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities.[19]

According to the Registration Statement, the Fund intends to qualify for and to elect to be treated as a separate regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code.[20]

The Fund will not invest in any non-U.S. equity securities (other than shares of the Subsidiary and Underlying ETFs listed on HKSE), to the extent that the Fund may not invest directly in China A-Shares through the QFII license, as described above. The Fund will not invest in options or swaps.

Net Asset Value

According to the Registration Statement, the Administrator will calculate the Fund's net asset value (''NAV'') per Share at the close of regular trading (normally 4:00 p.m., Eastern time) every day the New York Stock Exchange (''NYSE'') is open. NAV per Share will be calculated by deducting all of the Fund's liabilities from the total value of its assets and dividing the result by the number of Shares outstanding, rounding to the nearest cent (although creations and redemptions will be processed using a

[15] The Fund may invest in U.S. government obligations. Obligations issued or guaranteed by the U.S. Government, its agencies and instrumentalities include bills, notes and bonds issued by the U.S. Treasury, as well as ''stripped'' or ''zero coupon'' U.S. Treasury obligations representing future interest or principal payments on U.S. Treasury notes or bonds.

[16] Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates. Banker's acceptances are time drafts drawn on commercial banks by borrowers, usually in connection with international transactions.

[17] Investment Company Act Release No. 30238 (October 23, 2012) (File No. 812–13820).

[18] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[19] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[20] 26 U.S.C. 851.

price denominated to the fifth decimal point, meaning that rounding to the nearest cent may result in different prices in certain circumstances). All valuations will be subject to review by the Board or its delegate.

According to the Registration Statement, in determining NAV, expenses will be accrued and applied daily and securities and other assets for which market quotations are readily available will be valued at market value. Securities and futures listed or traded on an exchange generally will be valued at the last sales price or official closing price that day as of the close of the exchange where the security primarily is traded. The NAV for the Fund will be calculated and disseminated daily. If a security's or futures' market price is not readily available, the security or futures will be valued using pricing provided from independent pricing services or by another method that the Adviser, in its judgment, believes will better reflect the security's or futures' fair value in accordance with the Trust's valuation policies and procedures approved by the Trust's Board and with the 1940 Act.

Creations and Redemptions

The Fund will issue and redeem Shares at NAV only with authorized participants (''APs'') and only in large blocks of 50,000 Shares (each, a ''Creation Unit'') or multiples thereof.

The Trust will issue Shares of the Fund only in Creation Units on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt, on any business day, of an order in proper form.

Creation Units of the Fund will generally be issued principally for cash, calculated based on the NAV per Share, multiplied by the number of Shares representing a Creation Unit (''Deposit Cash''), plus a fixed and variable transaction fee. However, the Fund also reserves the right to permit or require Creation Units to be issued in exchange for a designated portfolio of securities (''Deposit Securities''), as discussed below, together with the deposit of an amount of cash (the ''Cash Component'') computed as discussed in the Registration Statement.[21] Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. If in-kind creations are permitted or required, the Adviser expects that the Deposit Securities should correspond pro rata, to the extent practicable, to the securities held by the Fund and the Subsidiary. In such event, the Cash Component will represent the difference between the NAV of a Creation Unit and the market value of the Deposit Securities.

To the extent that the Fund permits Creation Units to be issued in-kind, the Custodian, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern time), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. Such Fund Deposit is applicable, subject to any adjustments as described in the Registration Statement, to effect creations of Creation Units of the Fund until such time as the next announced composition of the Deposit Securities is made available.

When applicable, during times that the Fund permits in-kind creations, the identity and number of shares of the Deposit Securities required for a Fund Deposit will change as rebalancing adjustments and corporate action events occur. In addition, the Trust reserves the right to permit or require the substitution of an amount of cash—*i.e.,* a ''cash in lieu'' amount—to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or which might not be eligible for trading by an AP or the investor for which it is acting or any other relevant reason.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of the Fund Deposit, the Custodian, through the NSCC, also will make available on each business day, the estimated Cash Component, effective through and including the previous business day, per Creation Unit of the Fund.

The Distributor must receive all orders to create Creation Units no later than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., Eastern time) in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form.

Creation Units of the Fund will be redeemed principally for cash. Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Custodian and only on a business day.

If the Fund permits Creation Units to be redeemed in-kind, the Custodian, through the NSCC, will make available prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern time) on each business day, the identity of the ''Fund Securities'' that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form (as described below) on that day. Fund Securities received on redemption may not be identical to Deposit Securities that will be applicable to creations of Creation Units. The Fund will not redeem Shares in amounts less than Creation Unit size.

For redemptions in-kind, the redemption proceeds for a Creation Unit generally will consist of Fund Securities plus or minus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less a redemption transaction fee as noted below. In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the difference is required to be made by or through an AP by the redeeming shareholder.

A redemption transaction fee may be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

An order to redeem Creation Units must be made in proper form and received by the Fund by 4:00 p.m., Eastern time. Orders received after 4:00 p.m., Eastern time will be deemed received on the next business day and will be effected at the NAV next determined on such next business day. The requisite Fund Securities and cash amount will be transferred by the third NSCC business day following the date on which such request for redemption is deemed received.

Initial and Continued Listing

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [22] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of

[21] The Cash Component is sometimes also referred to as the ''Balancing Amount.'' If the Cash Component is a positive number (*i.e.,* the NAV per Creation Unit exceeds the Deposit Amount), the AP will deliver the Cash Component. If the Cash Component is a negative number (*i.e.,* the NAV per Creation Unit is less than the Deposit Amount), the AP will receive the Cash Component.

[22] 17 CFR 240.10A–3.

100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio for the Fund will be made available to all market participants at the same time.

Availability of Information

The Fund's Web site (*www.invescopowershares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[23] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) held by the Fund and the Subsidiary that will form the basis for the Fund's calculation of NAV at the end of the business day.[24]

On a daily basis, the Fund will disclose for each portfolio security, futures contract and other financial instrument of the Fund and the Subsidiary the following information on the Fund's Web site: ticker symbol (if applicable), name of security, futures contract and financial instrument, number of shares, if applicable, and dollar value of each security, futures contract and financial instrument held in the portfolio, and percentage weighting of the security, futures contract and financial instrument in the portfolio. The Web site information will be publicly available at no charge. Information on the value and the constituents of the Benchmark may be found on the Web site of FTSE, the Benchmark's provider, at *www.ftse.com*.

In addition, for in-kind creations, a basket composition file, which will include the security names and share quantities to deliver in exchange for Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket will represent one Creation Unit of the Fund.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov*. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[25] The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day. The intra-day, closing and settlement prices of the portfolio investments (*e.g.,* futures contracts and Underlying ETFs) are also readily available from the exchanges trading such securities or futures contracts, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[26] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the securities, futures contracts and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are

[23] The Bid/Ask Price of the Fund will be determined using mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[24] Under accounting procedures followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[25] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate Portfolio Indicative Values taken from CTA or other data feeds.

[26] *See* NYSE Arca Equities Rule 7.12.

designed to detect violations of Exchange rules and applicable federal securities laws.[27] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[28] All U.S. securities exchanges, Hong Kong Exchanges and Clearing Limited and SGX are members of the ISG.

The Fund will invest solely in SGX-listed futures contracts on the Benchmark. It is possible that the futures contracts on the Benchmark may become listed on other exchanges that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement, at which time the Fund may invest in those futures contracts listed on such exchanges. To the extent that the Fund or the Subsidiary were to invest in futures contracts on the Benchmark that were traded on exchanges other than SGX, not more than 10% of the weight of such futures contracts held by the Fund or the Subsidiary in the aggregate would consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, to the extent that the Fund invests directly in China A-Shares, not more than 10% of the weight of the Fund's portfolio in the aggregate shall consist of such China A-Shares whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value will be disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[29] that an exchange have rules that are 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, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser is affiliated with a broker-dealer, and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Exchange may obtain information via ISG from other exchanges that are members of ISG, including Hong Kong Exchanges and Clearing Limited and SGX, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The holdings of the Fund will be comprised primarily of SGX-listed futures contracts on the Benchmark, as well as Underlying ETFs that provide exposure to the China A-Shares market. The Fund also will invest directly in A-Shares to the extent permissible under Chinese law. The Fund expects to invest its remaining assets in U.S. government securities, money market instruments, cash and cash equivalent securities (*i.e.,* corporate commercial paper) in order to collateralize investments in futures or for other purposes. If the Fund may not invest directly in China A-Shares through the QFII license, as described above, then it will not invest in any non-U.S. equity securities (other than shares of the Subsidiary and Underlying ETFs listed on HKSE). Futures contracts are the only derivative instrument that the Fund will use as part of its investment strategy. The Fund will not invest in options or swaps. The Fund will limit its investments in illiquid securities to 15% of its net assets. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. Information on the value and the constituents of the Benchmark may be found on the Web site of FTSE, *www.ftse.com.* The intra-day, closing and settlement prices of the portfolio investments (*e.g.,* futures contracts and Underlying ETFs) also are readily available from the exchanges trading such securities or futures contracts, automated quotation systems, published or other public sources, or on-line information services.

As stated above, the Fund will invest solely in futures contracts on the Benchmark that are listed on the SGX. If futures contracts on the Benchmark become listed on other exchanges that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement, the

[27] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[28] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[29] 15 U.S.C. 78f(b)(5).

Fund may invest in those futures contracts listed on such exchanges. To the extent that the Fund or the Subsidiary were to invest in futures contracts on the Benchmark that were traded on exchanges other than SGX, not more than 10% of the weight of such futures contracts held by the Fund or the Subsidiary in the aggregate would consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, to the extent that the Fund invests directly in China A-Shares, not more than 10% of the weight of the Fund's portfolio in the aggregate shall consist of such China A-Shares whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily, and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Portfolio Indicative Value will be widely disseminated through the facilities of the CTA or by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which trading in Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that has an index of Chinese stocks as its Benchmark and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–56 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–2013–56. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–56 and should be submitted on or before June 20, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–12821 Filed 5–29–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69631; File No. SR–NASDAQ–2013–078]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a New Routing Option, MOPB, Under Rule 4758(a)(1)(A)

May 23, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to adopt a new routing option, MOPB, under Rule 4758(a)(1)(A). NASDAQ plans to offer the proposed routing option on June 3, 2013. Proposed deletions are in brackets; new language is in italics.

4758. Order Routing

(a) Order Routing Process

(1) The Order Routing Process shall be available to Participants from 4:00 a.m. until 8:00 p.m. Eastern Time, and shall route orders as described below. All routing of orders shall comply with Rule 611 of Regulation NMS under the Exchange Act.

(A) The System provides a variety of routing options. Routing options may be combined with all available order types and times-in-force, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option. The System will consider the quotations only of accessible markets. The term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. Nasdaq reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. The System routing options are:

(i)–(xiii) No change.

(xiv) MOPB is a routing option under which orders route only to Protected Quotations and only for displayed size. If shares remain unexecuted after routing, they will be immediately cancelled. The entire MOPB order will be cancelled immediately if, at the time of entry, there is an insufficient share quantity in the MOPB order to fulfill the displayed size of all Protected Quotations.

Orders that do not check the System for available shares prior to routing may not be sent to a facility of an exchange that is an affiliate of Nasdaq, except for orders that are sent to the NASDAQ OMX BX Equities Market or to the NASDAQ OMX PSX facility of NASDAQ OMX PHLX.

(B) No change.

(b)–(d) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is amending Rule 4758, which describes its order routing processes, to add the new MOPB routing option. The proposed MOPB routing option is very similar to the MOPP routing option, in that both order types require the member firm to enter the size and limit price of the order, which then routes only to protected quotations (''Protected Quotes''),[3] including the NASDAQ Market Center, but only for displayed size. Unlike MOPP orders, the MOPB orders will not route if, at the time of entry, the MOPB order's quantity is insufficient to clear the entire size of Protected Quotes, which are better than or equal to the order's limit price. In such a case, a MOPB order will instead cancel back immediately thus avoiding any execution. Also unlike MOPP orders, if shares of a MOPB order remain un-executed after routing they will be immediately cancelled back to the member rather than posting to the NASDAQ book.

Member firms often use the MOPP routing option to sweep all Protected Quotes, and then print an internalized crossed execution to the FINRA/NASDAQ Trade Reporting Facility, which occurs subsequent to the execution of the MOPP order and that would otherwise, but for the execution of the MOPP order, violate Rule 611 of Regulation NMS. Such member firms will enter the size of the MOPP order based on their perception of what the current size of the protected quote is on each of the markets. In some cases member firms may have incorrect information, which would result in an order that is not of sufficient size to sweep all Protected Quotes and would lead to a trade through violation[4] pursuant to Regulation NMS if the internal cross occurs. The MOPB routing option is designed to cancel any order that does not meet the size necessary to sweep the Protected Quotes on the various markets, thus allowing the member firm to avoid the trade through violation of an internally-crossed trade and reenter a MOPB order with adequate Protected Quote size information. Accordingly, the MOPB routing option provides member firms with an additional check to avoid a

[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined by Rule 600(b)(58) of Regulation NMS.

[4] Rule 611 of Regulation NMS.

trade through violation of Regulation NMS.

NASDAQ notes that the proposed MOPB routing option is very similar to the SWPB routing option of the EDGX Exchange, Inc.[5] The SWPB routing option checks the market's order book and then is sent to Protected Quotations, only for displayed size. Like the proposed MOPB, an SWPB order must be of sufficient size to execute against all Protected Quotations or the entire SWPB order will be immediately cancelled back to the member firm.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,[6] in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change to introduce the MOPB routing option will provide market participants with a useful order type that will help member firms avoid inadvertent violation of Rule 611 of Regulation NMS in an internally-crossed trade by cancelling an order that, although intended to fully sweep Protected Quotes, will not do so. As noted, the proposed routing option is very similar to the SWPB routing option of the EDGX Exchange, Inc., and therefore raises no novel issues.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to provide a new routing option that will serve as an additional safeguard to prevent the execution of an internally-crossed order that would violate Rule 611 of Regulation NMS. As such, NASDAQ does not believe the proposed change will have any impact whatsoever on competition, but does believe that it is entirely appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–078 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–078. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–078, and should be submitted on or before June 20, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–12818 Filed 5–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69629; File No. SR–CBOE–2013–054]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Rule 6.42

May 23, 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 May 13, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been

[5] *See* EDGX Rule 11.9(b)(2)(p); *see also* Securities Exchange Act Release No. 63779 (January 26, 2011), 76 FR 5636 (February 1, 2011) (SR–EDGX–2011–01).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b-4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.42. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Rule 6.42—Minimum Increments for Bids and Offers—regarding minimum increments of bids and offers for complex orders. Currently, Rule 6.42(4) states that bids and offers on complex orders may be expressed in any increment regardless of the minimum increments otherwise appropriate to the individual legs of the order. This language allows for complex order bids and offers to be expressed in any increment whatsoever. The Exchange believes that setting a minimum increment for bids and offers on complex orders of $0.01 will ensure that there is a reasonable lowest minimum increment for bids and offers that makes it simple to monitor and participate for all market participants. As such, in order to limit this potential, the Exchange hereby proposes to state that bids and offers on complex orders, as defined in Interpretation and Policy .01 to Rule 6.42, may be expressed in any net price increment that may not be less than $0.01 (as determined by the Exchange on a class-by-class basis and announced to the Trading Permit Holders via Regulatory Circular) regardless of the minimum increments otherwise appropriate to the individual legs of the order. The addition of the ''(as determined by the Exchange on a class-by-class basis and announced to the Trading Permit Holders via Regulatory Circular)'' language will allow the Exchange to establish such minimum increments on a class-by-class basis in order to ensure uniformity of minimum bid and offer increments within a class (as the Exchange may already do for bids and offers on complex orders in options on the S&P 500 Index (''SPX''), p.m.-settled S&P 500 Index (''SPXPM'') or on the S&P 100 Index (''OEX'' and ''XEO'')) as well as ensure that Trading Permit Holders are notified of such minimum increments via Regulatory Circular.

For example, the Exchange could release out a Regulatory Circular stating that the minimum increments for complex order bids and offers within a certain class would be $0.01. Or the Exchange could release a Regulatory Circular stating that the minimum increments for complex order bids and offers within a certain class would be $0.025, or even that $0.01 and $0.025 increments could be used for complex order bids and offers within a certain class (if, for example, such a class is accustomed to trading on both penny increments and also 2.5-cent increments). The Exchange could not, however, release a Regulatory Circular stating that the minimum increments for complex order bids and offers would be $0.005, or anything lower than $0.01.

The Exchange also proposes to make a similar change regarding complex orders in SPX, SPXPM, OEX and XEO (the ''Specific Options''). Currently, Rule 6.42(4) states that bids and offers on complex orders in the Specific Options, except for box/roll spreads, shall be expressed in decimal increments no smaller than $0.05 or in any increment, as determined by the Exchange on a class-by-class basis and announced to the Trading Permit Holders via Regulatory Circular.[3] This ''any increment'' language would also allow for the Exchange to determine that the minimum increment for bids and offers on complex orders in one or more class of the Specific Options would be smaller than $0.01. The Exchange desires to prevent the entry of bids and offers on such orders from being smaller than $0.01 for some of the reasons described above as well as to set a reasonable floor for such bid and offer increments. As such, the Exchange proposes to amend this language to state that bids and offers on complex orders in options on the S&P 500 Index (SPX), p.m.-settled S&P 500 Index (SPXPM) or on the S&P 100 Index (OEX and XEO), except for box/roll spreads, shall be expressed in increments no smaller than $0.05 or in any net price increment that may not be less than $0.01, as determined by the Exchange on a class-by-class basis and announced to the Trading Permit Holders via Regulatory Circular. The Exchange proposes to delete the word ''decimal'' from before ''increments'' because the specification of decimal increments is no longer relevant.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that setting a minimum increment for bids and offers on complex orders of $0.01 will ensure that there is a reasonable lowest minimum increment for bids and offers that makes it simple to monitor and participate for all market participants, thereby removing impediments to and perfecting the mechanism of a free and open market.

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

[3] *See* CBOE Rule 6.42(4).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] *Id.*

Exchange believes that the proposed change will not impose an unnecessary burden on intramarket competition because it applies to bids and offers in complex orders from all market participants. The Exchange believes that the proposed change will not impose an unnecessary burden on intermarket competition because it applies only to CBOE. To the extent that setting the lowest possible minimum increment for bids and offers in complex orders at $0.01 may be attractive to market participants at other options exchange, such market participants are always welcome to become CBOE market participants.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–054 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–054. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–054, and should be submitted on or before June 20, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–12796 Filed 5–29–13; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69633; File No. SR–Phlx–2013–55]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to $0.50 and $1 Strike Price Intervals for Classes in the Short Term Option Series Program

May 23, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 17, 2013, NASDAQ OMX PHLX LLC (the ''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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 is filing with the Commission a proposal to amend Rule 1012 (Series of Options Open for Trading) and Rule 1101A (Terms of Option Contracts) to give the Exchange the ability to initiate strike prices in more granular intervals for Short Term Options (''STOs'') in the same manner as on other options exchanges;[3] while permitting, during the expiration week of non-Short Term Options that are on a class that has been selected to participate in the Short Term Option Series Program (referred to as a ''Related non-Short Term Option series''), for the Related non-Short Term Option series to have the same strike price interval setting parameters as STOs.[4]

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii).[5]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[3] STOs, also known as ''Weekly options'' as well as ''Short Term Options'', are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. *See* Rules 1000(b)(44), 1000A(b)(16), Commentary .11 to Rule 1012 and Rule 1101A(b)(vi) regarding the Short Term Option Series Program (also known as the ''Program'') for equity, exchange traded fund (''ETF'') and index options. The Program has been operational since 2010. *See* Securities Exchange Act Release No. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010) (SR–Phlx–2010–84) (notice of filing and immediate effectiveness establishing the Short Term Option Series Program on the Exchange).

[4] The Related non-Short Term Option will be the same option class as the Weekly option but will have a longer expiration cycle (*e.g.,* a SPY monthly expiration option as compared to a SPY Weekly option.)

[5] 17 CFR 240.19b–4(f)(6)(iii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Rules 1012 and 1101A to amend the strike price interval setting parameters for STOs; while permitting, during the expiration week of Related non-Short Term Option series, for such options to have the same strike price interval setting parameters as STOs.

The Commission recently approved the Exchange's proposal regarding $0.50 and $1 strike price intervals for certain STOs.[6] The Commission simultaneously approved an International Securities Exchange, LLC (''ISE'') filing regarding $0.50 strike price intervals for certain STOs that used a different methodology than Phlx for STO pricing.[7] The Exchange is now proposing to integrate the ISE and Phlx methodologies, and is basing this proposal on a Chicago Board Options Exchange, Incorporated (''CBOE'') filing that consolidated the Phlx and ISE methodologies for establishing strike price intervals for STOs.[8]

The ISE and Phlx filings both made changes to the strike price interval setting parameter rules for their respective Short Term Option Programs. Weekly options are not listed to expire during the same week as Related non-Short Term Options. As a result, both the Exchange and ISE in their respective filings amended their rules to permit Related non-Short Term Options on classes that participate in the Short Term Options Program to have the same strike price interval setting parameters as STOs during the week that Related non-Short Term Options expire. However, other revisions to Exchange and ISE Short Term Options Programs differ. Specifically, ISE permits $0.50 strike price intervals for STOs for option classes that trade in one dollar increments and are in the Short Term Option Program. Phlx permits $0.50 strike price intervals when the strike price is below $75, and $1 strike price intervals when the strike price is between $75 and $150. Phlx also provides that Related non-Short Term Option series may be opened during the week prior to expiration week pursuant to the same strike price interval parameters that exist for STOs. Thus, a Related non-Short Term Option series may be opened in STO strike price intervals on a Thursday or a Friday that is a business day before the Related non-Short Term Option expiration week.[9] If the Exchange is not open for business on the respective Thursday or Friday, however, the Related non-Short Term Option may be opened in STO intervals on the first business day immediately prior to that respective Thursday or Friday.[10]

The Exchange is proposing to adopt both the strike price interval setting parameters that are currently in effect for the Exchange as well as for ISE in order to remain competitive. The Exchange notes that while it believes that there is substantial overlap between the two strike price interval setting parameters, the Exchange believes there are gaps that would enable the Exchange to initiate a series that ISE would not be able to initiate and vice versa.[11] Since strict inter-exchange rule uniformity is not required for the Short Term Option Programs that have been adopted by the various options exchanges, the Exchange proposes to revise its strike price intervals setting parameters so that it has the ability to initiate strike prices in the same manner (i.e., intervals) as ISE. Accordingly, the Exchange proposes to adopt the rule text language of the CBOE filing[12] and in this way consolidate the ISE filing and Phlx filing approaches regarding strike price intervals for STOs.[13]

[6] *See* Securities Exchange Act Release No. and 67753 (August 29, 2012) 77 FR 54635 (September 5, 2012) (SR-Phlx-2012–78) (order approving) (''Phlx filing'').

[7] *See* Securities Exchange Act Release No. 67754 (August 29, 2012), 77 FR 54629 (September 5, 2012) (SR–ISE–2012–33) (order approving) (''ISE filing'').

[8] *See* Securities Exchange Act Release No. 68074 (October 19, 2012), 77 FR 65241 (October 25, 2012) (SR–CBOE–2012–092) (notice of filing and immediate effectiveness) (''CBOE filing'').

[9] This opening timing is consistent with the principle that the Exchange may add new series of options until five business days prior to expiration. *See* Commentary .11 to Rule 1012 and Rule 1101A(b)(vi). The Exchange intends to submit a separate proposal that allows adding new series of options until two business days prior to expiration. *See* Securities Exchange Act Release Nos. 68606 (January 9, 2013), 78 FR 3065 (January 15, 2013)(SR–CBOE–2012–131)(notice of filing and immediate effectiveness to permit CBOE to list additional strike prices until the close of trading on the second business day prior to monthly expiration); and 68461 (December 18, 2012) (SR–NYSEArca-2012–94)(approval order to permit NYSE Arca to list additional strike prices until the close of trading on the second business day prior to monthly expiration).

[10] The STO opening process is set forth in Commentary .11 to Rule 1012 and Rule 1101A(b)(vi): ''After an index option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day (''Short Term Option Opening Date'') series of options on that class that expire on the Friday of the following business week that is a business day (''Short Term Option Expiration Date''). If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on the Friday of the following business week, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.''

[11] The Exchange is making a distinction between initiating series and cloning series. The Exchange and the majority, if not all, of the other options exchanges that have adopted a Short Term Option Program have a rule similar to the Exchange's that permits the listing of series that are opened by other exchanges. *See* Commentary .11 to Rule 1012 and Rule 1101A(b)(vi). This filing is concerned with the ability to initiate series. For example, if a class is selected to participate in the Short Term Option Program and Related non-Short Term Options on that class do *not* trade in dollar increments, the Exchange would be permitted to initiate $0.50 strikes on that class and ISE would not. Similarly, the strike price interval for ETF options is generally $1 or greater where the strike price is $200 or less. If an ETF class is selected to participate in the Short Term Option Program, the Exchange believes that ISE would be permitted to initiate $0.50 strike price intervals where the strike price is between $151 and $200, but Phlx would not be.

[12] *See supra* note 8, and CBOE Rules 5.5 (non-index options) and 24.9 (index options).

[13] The rule language proposed by the Exchange is, in all material respects, similar to the language of CBOE Rules 5.5 and 24.9.

The proposed rule language would state, in relevant part, that notwithstanding any other provision regarding strike prices in the rules: ''non-Short Term Options that are on a class [or index class] that has been selected to participate in the Short Term Option Series Program (referred to as a ''Related non-Short Term Option series'') shall be opened during the week prior to the week that such Related non-Short Term Option series expire in the same manner as permitted [in the Short Term Option Program rules].'' *See* proposed Commentary .05(a)(vii) to Rule 1012 (regarding non-index options), and Rule 1101A(a) (regarding index options).

The proposed rule language would also state, in relevant part, that intervals on Short Term Option Series may be: ''(i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all classes [or index classes] that participate in the Short Term Options Series Program; or (ii) $0.50 for classes [or index classes] that trade in one dollar increments in Related non-Short Term Options and that participate in the Short Term Option Series Program. Related non-Short Term Option series shall be opened during the week prior to the week that such Related non-Short Term Option series expire in the same manner as permitted [in the Short Term Option Program rules].'' *See* proposed Commentary .11(e) to Rule 1012 (regarding non-index options), and Rule 1101A(b)(vi)(E) (regarding index options).

In support of this proposal, the Exchange states that the principal reason for the proposed expansion is in response to market and customer demand to list actively traded products in more granular strike price intervals and to provide Exchange members and their customers increased trading opportunities in the Short Term Option Program, which is one of the most popular and quickly-expanding options expiration programs.[14] The Exchange has observed increased demand for STO classes and/or series, particularly when market moving events such as significant market volatility, corporate events, or large market, sector, or individual issue price swings have occurred. There are substantial benefits to market participants in the ability to trade eligible option classes at more granular strike price intervals. Furthermore, the Exchange supports the objective of responding to customer demand for harmonized listing between STO and Related non-Short Term Options and the availability of more granular strike price intervals.

The Exchange notes that the Short Term Option Series Program has been well-received by market participants, in particular by retail investors. The Exchange believes that the current proposed revisions to the Short Term Options Series Program will permit the Exchange to meet increased customer demand for more granular strike prices and the harmonization of strike prices between STOs and Related non-Short Term Options on the same classes.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this current amendment to the Short Term Option Series Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange represents that it will monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.[15] In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that giving it the ability to initiate strike prices in $0.50 and $1 intervals for STO options, as provided for in the proposed rule text, is reasonable because it will benefit investors by providing them with the flexibility to more closely tailor their investment and hedging decisions. The Exchange also believes that it is reasonable to harmonize strike prices between STOs and Related non-Short Term Options during expiration week for Related non-Short Term Options, because doing so will ensure conformity between STOs and Related non-Short Term Options that are on the same class. While the proposed rule change may generate additional quote traffic, the Exchange does not believe that any increased traffic will become unmanageable since the proposal remains limited to a fixed number of classes. The Exchange also believes that the proposed rule change will ensure competition because it will allow the Exchange to initiate series in the same strike intervals as ISE, CBOE and other options exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal is pro-competitive. The rule change is proposed as a competitive response to a recently approved ISE, and a CBOE, filing. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges regarding more granular strike price intervals for STOs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay will allow Phlx to initiate strikes prices in more granular intervals for STOs in the same manner as ISE and CBOE, and permit, during the expiration week of a Related non-Short Term option, a Related non-Short Term Option on a class that is selected to participate in the Short Term Options Series Program to have the strike price interval setting parameters as STOs. In sum, the proposed rule change presents no novel issues, and waiver will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposal operative upon filing.[19]

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.

[14] Since the inception of the Short Term Options Series Program, it has steadily expanded to the point that by the end of 2012, STOs represented 7% of the total options volume on the Exchange and 13% of the total options volume in the United States.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR-Phlx-2013–55 *on the subject line.*

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-Phlx-2013–55. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2013–55 and should be submitted on or before June 20, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–12795 Filed 5–29–13; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69632; File No. SR–Phlx–2013–56]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Rule Governing Cancellation of Orders in the Event of an Issuer Corporate Action Related to a Dividend, Payment or Distribution, and To Make Related Clarifications to Rule Text

May 23, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 16, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a rule governing cancellation of orders in the event of an issuer corporate action related to a dividend, payment or distribution, and to make related clarifications to rule text.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx is proposing to adopt Rule 3311 to address the treatment of quotes/orders in securities that are the subject of issuer corporate actions related to a dividend, payment or distribution (a ''corporate action''). The rule will apply to any trading interest that is carried on the PSX book overnight.[4] The proposed Phlx rule would provide that in the event of any corporate action, Phlx will cancel open quote/orders on the ex-date of the action, thereby imposing on the member that entered the order the responsibility for determining whether it wishes to reenter the order and if so, at what price and size. The cancellation would occur immediately prior to the opening of the Phlx Equities Market at 8 a.m. on the ex-date of the corporate action, and the member would receive a cancellation notice, so that it could, if it desired, reenter the order at the commencement of trading on the ex-date.

In addition, Phlx is proposing to amend Rule 3306(b) to make it clear that quotes do not necessarily remain open overnight. Specifically, Phlx is modifying a description of open quotes, the original intent of which is unclear and that accordingly may result in confusion.[5] The sentence in question

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Phlx notes that its market participants have not historically made use of such good-'till-cancelled trading interest, but believes that a rule should be adopted to ensure that the treatment of such orders is clearly specified by its rules. The Commission notes that Phlx stated in Form 19b–4 regarding SR–Phlx–2013–56 that the term ''PSX'' refers to NASDAQ OMX PSX.

[5] The rule in question was adopted recently as part of a proposed rule change that adopted rules in effect at The NASDAQ Stock Market (''NASDAQ'') and/or NASDAQ OMX BX (''BX'') with respect to market making. Securities Exchange Act Release No. 69452 (April 25, 2013), 78 FR 25512 (May 1, 2013) (SR–Phlx–2013–24). Proposed rule changes to amend the corresponding NASDAQ and BX rules in a manner similar to this proposed rule change were filed while SR–Phlx–2013–24 was awaiting approval. *See* Securities Exchange Act Release No. 69454 (April 25, 2013), 78 FR 25506 (May 1, 2013) (SR–NASDAQ–2013–068); Securities Exchange Act Release No. 69456 (April 25, 2013), 78 FR 25510 (May 1, 2013) (SR–BX–2013–031).

Continued

appears to reflect the idea that an open quote (*i.e.,* a quote designated to remain open at the end of the trading day) would be processed in the same manner as a System Hours GTC Order. While accurate, this statement does not reflect the fact that a quote may also accurately be described as an Attributable Order entered by a PSX Market Maker or Equities ECN (*i.e.,* trading interest that is identified as having been entered by a particular market participant). Moreover, although an Attributable Order may be entered with a time-in-force of good-'till-cancelled and thereby remain open overnight, such orders have not historically been used by Phlx market participants. Accordingly, Phlx believes that the focus of the current sentence on orders remaining open might imply that all quotes would remain open overnight, when as a factual matter this would be the case only to the extent a quote was designated as good-'till-cancelled. Phlx proposes to amend the sentence to provide that ''Quotes will be processed as Attributable Orders, with such time-in-force designation as the PSX Market Maker or Equities ECN may assign.'' Finally, Phlx proposes to amend the rule to capitalize the word ''System'' to reflect that it is a defined term in the rules governing PSX.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(5) of the Act[7] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, Phlx believes that the change will simplify Phlx's rule governing adjustment of open quotes/orders in the event of corporate actions by making it clear that all such quotes/orders will be cancelled, thereby ensuring that market participants have appropriate notice of the possibility that they may either deem it advisable not to reenter such quotes/orders, or to reenter them with such adjustments to price and/or size as the market participant deems advisable to reflect the corporate action. Thus, the change will facilitate transactions in securities and perfect the mechanism of a free and open market by providing additional assurance that market participants carefully manage the trading interest that they enter into Phlx. In addition, the proposed changes to Rule 3306 are designed to improve the clarity and accuracy of that rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, Phlx believes that the rule change does not affect the availability or pricing of goods or services offered by the Exchange, and therefore does not impact competition between the Exchange and others. Rather, the change is designed to adopt and clarify rules to better describe the operation of the Exchange's trading systems, but in a manner that does not restrict the ability of members to enter and update trading interest in PSX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2013–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2013–56. 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

It should be noted that although Phlx rules now permit members to register and trade as PSX Market Makers or Equities ECNs, no member has yet currently registered with such a status. Accordingly, the following discussion regarding the use and processing of quotes should be understood as not having a direct impact on any current Phlx market participants. Rather, the proposed rule change is intended to ensure that the rules that would govern such matters are clear.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

available publicly. All submissions should refer to File Number SR–Phlx–2013–56 and should be submitted on or before June 20, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–12794 Filed 5–29–13; 8:45 am]

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69636; File No. SR–NYSEArca–2013–52]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Proposing To List and Trade Shares of the First Trust Morningstar Futures Strategy Fund Under NYSE Arca Equities Rule 8.600

May 24, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 15, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): First Trust Morningstar Futures Strategy Fund. 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 list and trade the shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange:[3] First Trust Morningstar Futures Strategy Fund (the ''Fund'').[4] The Shares will be offered by First Trust Exchange-Traded Fund V (the ''Trust''), a statutory trust organized under the laws of the State of Massachusetts and registered with the Commission as an open-end management investment company.[5] The investment adviser to the Fund is First Trust Advisors L.P. (the ''Adviser''). First Trust Portfolios L.P. (the ''Distributor'') will be the principal underwriter and distributor of the Fund Shares. The Bank of New York Mellon Corporation (the ''Administrator,'' ''Transfer Agent'' or ''Custodian'') will serve as administrator, custodian and transfer agent for the Fund.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[6] Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer but is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (the ''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[4] The Commission approved NYSE Arca Equities Rule 8.600 and the listing and trading of certain funds of the PowerShares Actively Managed Exchange-Traded Fund Trust on the Exchange pursuant to Rule 8.600 in Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca–2008–25). The Commission also previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.*, Securities Exchange Act Release Nos. 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR–NYSEArca–2010–57) (order approving listing and trading of AdvisorShares WCM/BNY Mellon Focused Growth ADR ETF); 63598 (December 22, 2010), 75 FR 82106 (December 29, 2010) (SR–NYSEArca–2010–98) (order approving listing and trading of WisdomTree Managed Futures Strategy Fund); and 66343 (February 7, 2012), 77 FR 7647 (February 13, 2012) (SR–NYSEArca–2011–85) (order approving listing and trading of five SPDR SSgA ETFs).

[5] The Trust is registered under the 1940 Act. On May 18, 2012, the Trust filed with the Commission an initial registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (the ''1933 Act'') and under the 1940 Act relating to the Fund (File Nos. 333–181507 and 811–22709) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795) (the ''Exemptive Order'').

[6] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Commodity Futures Trading Commission (''CFTC'') has recently adopted substantial amendments to CFTC Rule 4.5 relating to the permissible exemptions and conditions for reliance on exemptions from registration as a commodity pool operator. As a result of the instruments that will be held by the Fund, the Adviser has registered as a Commodity Pool Operator (''CPO'') and is also a member of the National Futures Association (''NFA''). The Fund and the Subsidiary (as defined herein) will be subject to regulation by the CFTC and NFA and additional disclosure, reporting and recordkeeping rules imposed upon commodity pools.

According to the Registration Statement, the Fund will be an actively managed exchange-traded fund that will seek to provide investors with positive returns.

Fund Investments

According to the Registration Statement, the Fund will seek to provide investors with positive returns. The Fund will seek to achieve positive total returns that are not directly correlated to broad market equity or fixed income returns. The Fund will seek to track the performance of the Morningstar(R) Diversified Futures Index(SM) (the ''Benchmark''), which is developed, maintained and sponsored by Morningstar, Inc. (''Morningstar'').[7] The Fund is not sponsored, endorsed, sold or promoted by Morningstar. Morningstar's only relationship to the Fund is the licensing of certain service marks and service names of Morningstar and of the Benchmark, which is determined, composed and calculated by Morningstar without regard to the Adviser or the Fund. Morningstar has no obligation to take the needs of the Adviser or the Fund into consideration in determining, composing or calculating the Benchmark. The Benchmark seeks to reflect trends (in either direction) in the commodity futures, currencies futures and financial futures markets. The Benchmark is a fully collateralized futures index that offers diversified exposure to global markets through highly-liquid, exchange listed futures contracts in commodities, currencies and equity indexes. The Fund will generally seek to hold similar instruments to those included in the Benchmark. In addition, the Fund will generally only seek exposure to commodities included in the Benchmark. However, the Fund is not obligated to invest in the same instruments included in the Benchmark. There can be no assurance that the Fund's performance will track the Benchmark at all times.

Under normal market conditions,[8] the Fund, through FT Cayman Subsidiary, a wholly-owned subsidiary of the Fund organized under the laws of the Cayman Islands (the ''Subsidiary''), will invest in a diversified portfolio of exchange-listed commodity futures, currency futures and equity index futures (collectively, ''Futures Instruments'') with an aggregate notional value substantially equal to the Fund's net assets.

The Fund will not invest directly in Futures Instruments. The Fund expects to exclusively gain exposure to these investments by investing in the Subsidiary. The Subsidiary will be advised by the Adviser.[9] The Fund's investment in the Subsidiary is intended to provide the Fund with exposure to commodity markets within the limits of current federal income tax laws applicable to investment companies such as the Fund, which limit the ability of investment companies to invest directly in the Futures Instruments. The Subsidiary will have the same investment objective as the Fund, but unlike the Fund, it may invest without limitation in Futures Instruments. Except as otherwise noted, references to the Fund's investments may also be deemed to include the Fund's indirect investments through the Subsidiary. The Fund will invest up to 25% of its total assets in the Subsidiary. Each of the Subsidiary's investments will generally be positioned long, short or flat based on its price relative to its average price over a recent period, with the ability to change positions as frequently as daily if the Benchmark is so adjusted. The Subsidiary's investments will provide the Fund with exposure to domestic and international markets.

According to the Registration Statement, the Fund will invest a substantial portion of its assets in fixed income securities that include U.S. government and agency securities, money market instruments,[10] overnight and fixed-term repurchase agreements, cash and other cash equivalents. The Fund will use the fixed-income securities as investments and to meet asset coverage tests resulting from the Subsidiary's derivative exposure on a day-to-day basis. The Fund may also invest directly in exchange-traded funds (''ETFs'')[11] and other investment companies that provide exposure to commodities, equity securities and fixed income securities, to the extent permitted under the 1940 Act. Under the 1940 Act, the Fund's investment in investment companies is limited to, subject to certain exceptions: (i) 3% of the total outstanding voting stock of any one investment company, (ii) 5% of the Fund's total assets with respect to any one investment company and (iii) 10% of the Fund's total assets of investment companies in the aggregate. As a whole, the Fund's investments are meant to track the investment returns of the Benchmark within the limitations of the federal tax requirements applicable to regulated investment companies.

[7] Morningstar is not a broker-dealer but is affiliated with a broker-dealer and, with respect to such broker-dealer affiliate, has implemented a fire wall and procedures designed to prevent the illicit use and dissemination of material, non-public information regarding the Benchmark.

[8] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets, futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[9] The Subsidiary is not registered under the 1940 Act and is not directly subject to its investor protections, except as noted in the Registration Statement. However, the Subsidiary is wholly-owned and controlled by the Fund and is advised by the Adviser. Therefore, because of the Fund's ownership and control of the Subsidiary, the Subsidiary would not take action contrary to the interests of the Fund or its shareholders. The Fund's Board of Trustees (''Board'') has oversight responsibility for the investment activities of the Fund, including its expected investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. The Adviser receives no additional compensation for managing the assets of the Subsidiary. The Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Fund.

[10] The Fund may invest in shares of money market funds to the extent permitted by the 1940 Act.

[11] For purposes of this proposed rule change, ETFs include securities such as those listed and traded under NYSE Arca Equities Rule 5.2(j)(3) (''Investment Company Units''), 8.100 (''Portfolio Depositary Receipts'') and 8.600 (''Managed Fund Shares'').

The Benchmark and the Subsidiary's holdings in futures contracts will consist of futures contracts providing long, short and flat exposure, which include, but are not limited to, commodities, equity indexes and currencies (Euro, Japanese Yen, British Pound, Canadian Dollar, Australian Dollar and Swiss Franc). The Subsidiary's exposure will generally be weighted 50% in commodity futures, 25% in equity futures and 25% in currency futures. The base weights typically will be rebalanced quarterly to maintain the 50%/25%/25% allocation.

The Subsidiary's commodity- and currency-linked investments generally will be limited to investments in listed futures contracts that provide exposure to commodity and non-U.S. currency returns. The Subsidiary will also invest in exchange-listed equity index futures. The Fund and the Subsidiary also may enter into repurchase agreements with counterparties that are deemed to present acceptable credit risks. A repurchase agreement is a transaction in which the Fund and the Subsidiary purchase securities or other obligations from a bank or securities dealer and simultaneously commit to resell them to a counterparty at an agreed-upon date or upon demand and at a price reflecting a market rate of interest unrelated to the coupon rate or maturity of the purchased obligations.

The following table describes each of the commodities, currencies and equity indexes underlying the futures contracts included in the Benchmark as of April 30, 2013. This table is subject to change and the Subsidiary will not in all cases invest in the futures contracts included in the Benchmark. The table also provides each instrument's trading hours (Eastern time (''E.T.''), exchange and ticker symbol.

	Exchange code	Exchange name	Trading hours	Contract ticker (generic)
Commodity:				
Wheat/No. 2 Hard Winter	KCB	Kansas City Board of Trade	17:00–14:00	KW.
Soybean Meal/48% Protein	CBT	Chicago Board of Trade	17:00–14:00	SM.
Cotton/1–1/16"	NYB	ICE Futures U.S.	20:00–13:30	CT.
Soybean Oil/Crude	CBT	Chicago Board of Trade	17:00–14:00	BO.
Wheat/No. 2 Soft Red	CBT	Chicago Board of Trade	17:00–14:00	W.
Coffee 'C'/Colombian	NYB	ICE Futures U.S.	02:30–13:00	KC.
Hogs, Lean/Average Iowa/S Minn	CME	Chicago Mercantile Exchange	17:00–16:00	LH.
Copper High Grade/Scrap No. 2 Wir	CMX	COMEX	17:00–16:15	HG.
Cattle, Live/Choice Average	CME	Chicago Mercantile Exchange	17:00–16:00	LC.
Sugar #11/World Raw	NYB	ICE Futures U.S.	01:30–13:00	SB.
Silver	CMX	COMEX	17:00–16:15	SI.
Gasoline, Blendstock	NYM	New York Mercantile Exchange	17:00–16:15	XB.
Soybeans/No. 2 Yellow	CBT	Chicago Board of Trade	17:00–14:00	S.
Corn/No. 2 Yellow	CBT	Chicago Board of Trade	17:00–14:00	C.
Heating Oil #2/Fuel Oil	NYM	New York Mercantile Exchange	17:00–16:15	HO.
Natural Gas, Henry Hub	NYM	New York Mercantile Exchange	17:00–16:15	NG.
Gas-Oil-Petroleum	ICE	ICE Futures U.K.	19:00–17:00	QS.
Gold	CMX	COMEX	17:00–16:15	GC.
Crude Oil, Brent/Global Spot	ICE	ICE Futures U.K.	19:00–17:00	CO.
Crude Oil, WTI/Global Spot	NYM	New York Mercantile Exchange	17:00–16:15	CL.
Currency:				
Swiss Franc/U.S. Dollar	CME	Chicago Mercantile Exchange	17:00–16:00	MSS.
Australian Dollar/U.S. Dollar	CME	Chicago Mercantile Exchange	17:00–16:00	CRD.
Canadian Dollar/U.S. Dollar	CME	Chicago Mercantile Exchange	17:00–16:00	MCD.
Japanese Yen/U.S. Dollar	CME	Chicago Mercantile Exchange	17:00–16:00	JE.
British Pound/U.S. Dollar	CME	Chicago Mercantile Exchange	17:00–16:00	CRP.
Euro FX	CME	Chicago Mercantile Exchange	17:00–16:00	EE.
Equity Index:				
Australia 200 S	ASX	Australian Stock Exchange	02:30–05:00	KF.
MIB SP	MIL	Borsa Italiana	02:00–10:40	SW.
S&P/TSX 60	MSE	Montreal Exchange	05:00–15:15	MPT.
IBEX 35 Index	MFM	Meff Renta Variable (MEFF-Madrid)	02:00–13:00	ID.
FTSE 100	LIF	NYSE LIFFE	19:00–01:50	Z.
CAC–40 Index	EOP	NYSE LIFFE Paris	01:00–15:00	CF.
DAX	EUX	Eurex	00:50–15:00	GX.
Nikkei 225	OSE	Osaka Securities Exchange	02:30–13:00	NO.
S&P 500	CME	Chicago Mercantile Exchange	17:00–15:15	ES.

According to the Registration Statement, the Fund, through the Subsidiary, will attempt to capture the economic benefit derived from rising and declining trends based on the ''moving average'' price changes of commodity futures, currency futures and equity index futures. In an attempt to capture these trends, the Fund's investments, through the Subsidiary, will generally be positioned as either ''long,'' ''short'' or ''flat.'' To be ''long'' means to hold or be exposed to a security or instrument with the expectation that its value will increase over time. To be ''short'' means to sell or be exposed to a security or instrument with the expectation that it will fall in value. To be ''flat'' means to move a position to cash if a short signal is triggered in a security or instrument. The Fund, through the Subsidiary, will benefit if it has a long position in a security or instrument that increases in value or a short position in a security or instrument that decreases in value. Conversely, the Fund, through the Subsidiary, will be adversely impacted if it holds a long position in a security or instrument that declines in value and a short position in a security or instrument that increases in value. Although the Fund will seek returns

that track the returns of the Benchmark, the Fund, through the Subsidiary, may have a higher or lower exposure to any sector or component within the Benchmark at any time.

The Subsidiary's shares will be offered only to the Fund and the Fund will not sell shares of the Subsidiary to other investors. The Fund will not invest in any non-U.S. equity securities (other than shares of the Subsidiary), and the Subsidiary will not invest in any non-U.S. equity securities.

The Fund's investment in the Subsidiary will be designed to help the Fund achieve exposure to commodity returns in a manner consistent with the federal tax requirements applicable to the Fund and other regulated investment companies.

Other Investments

According to the Registration Statement, the Fund may from time to time purchase securities on a ''when-issued'' or other delayed-delivery basis. The price of securities purchased in such transactions is fixed at the time the commitment to purchase is made, but delivery and payment for the securities take place at a later date.

The Fund may invest in certificates of deposit issued against funds deposited in a bank or savings and loan association. In addition, the Fund may invest in bankers' acceptances, which are short-term credit instruments used to finance commercial transactions.

The Fund may invest in bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest. In addition, the Fund may invest in commercial paper, which are short-term unsecured promissory notes, including variable rate master demand notes issued by corporations to finance their current operations. Master demand notes are direct lending arrangements between the Fund and a corporation. The Fund may invest in commercial paper only if it has received the highest rating from at least one nationally recognized statistical rating organization or, if unrated, judged by First Trust to be of comparable quality.

The Fund may also invest a portion of its assets in exchange-traded pooled investment vehicles (''Underlying ETPs'') other than registered investment companies that invest principally in commodities.[12]

The Fund or the Subsidiary will not invest in options on commodity futures, structured notes, equity-linked derivatives, forwards or swaps contracts.

Investment Restrictions

While the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (i.e., 2X and 3X) of the Fund's Benchmark.

According to the Registration Statement, the Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries.[13] This restriction does not apply to obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities.

The Fund will not purchase securities of open-end or closed-end investment companies except in compliance with the 1940 Act.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities and master demand notes. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[14]

The Fund intends to qualify for and to elect to be treated as a separate regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code.[15]

The Shares will conform to the initial listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [16] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the net asset value (''NAV'') per Share will be calculated daily, and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available at the same time to all market participants.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

Net Asset Value

According to the Registration Statement, the Fund's NAV will be determined as of the close of trading (normally 4:00 p.m., E.T.) on each day the New York Stock Exchange is open for business. NAV will be calculated for the Fund by taking the market price of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, and dividing such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share. All valuations will be subject to review by the Fund's Board or its delegate.

The Fund's and the Subsidiary's investments will be valued at market value or, in the absence of market value with respect to any portfolio securities, at fair value in accordance with valuation procedures adopted by the Trust's Board and in accordance with the 1940 Act. Portfolio securities traded on more than one securities exchange will be valued at the last sale price or official closing price, as applicable, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such securities. Portfolio

[12] The term ''Underlying ETPs'' includes Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); and Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500). The Underlying ETPs all will be listed and traded in the U.S. on registered exchanges.

[13] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[14] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

[15] 26 U.S.C. 851.

[16] 17 CFR 240.10A–3.

securities traded in the over-the-counter market, will be valued at the closing bid prices. Short-term investments that mature in less than 60 days when purchased will be valued at amortized cost. Exchange-traded futures contracts will be valued at the closing price in the market where such contracts are principally traded.

Certain securities may not be able to be priced by pre-established pricing methods. Such securities may be valued by the Board or its delegate at fair value. The use of fair value pricing by the Fund will be governed by valuation procedures adopted by the Board and in accordance with the provisions of the 1940 Act.

Creation and Redemption of Shares

Creation and redemption of Shares will occur in large specified blocks of Shares, referred to as ''Creation Units.'' A Creation Unit of the Fund currently will be comprised of 50,000 Shares of the Fund. The number of Shares comprising a Creation Unit may change over time. According to the Registration Statement, to purchase or redeem Creation Units directly from the Fund, an investor must be an Authorized Participant, or an investor must purchase the Shares through a financial institution that is an Authorized Participant. An ''Authorized Participant'' is a participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC'') or the Depository Trust Company that has executed a participant agreement with the Distributor that has been accepted by the Trust's Custodian. Authorized Participants may purchase Creation Units of a Fund and sell individual Shares on the NYSE Arca. Similarly, Shares can only be redeemed in Creation Units. The process at which creations and redemptions occur will be based on the next calculation of the NAV after an order in proper form is received by the Distributor on any day that the Fund is open for business. Generally, a Creation Unit will be purchased or redeemed from the Fund for a designated portfolio of securities along with cash payment (''Deposit Securities,'' in the case of purchases, and ''Redemption Securities,'' in the case of redemption). Generally, the Deposit Securities and the Redemption Securities will correspond pro rata to the portfolio of securities of the Fund. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in-kind, under circumstances set forth in the Registration Statement.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings, disclosure policies, distributions, and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Availability of Information

The Fund's Web site (*www.ftportfolios.com*) will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[17] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session (normally 9:30 a.m. to 4:00 p.m., E.T.) on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.[18]

On a daily basis, the Fund will disclose for each portfolio security and other financial instrument of the Fund and of the holdings of the Subsidiary the following information on the Fund's Web site: ticker symbol (if applicable), name of security, futures contract, and/or financial instrument, number of shares, if applicable, and dollar value of each security, futures contract, and/or financial instrument held, and percentage weighting of each security, futures contract, and/or financial instrument held. The Web site information will be publicly available at no charge.

In addition, for in-kind creations, a basket composition file, which includes the security names to deliver in exchange for Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket will represent one Creation Unit of the Fund.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[19] The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day. The intra-day, closing and settlement prices of the portfolio investments (*e.g.,* Futures Instruments, ETFs, Underlying ETPs and fixed income securities) are also readily available from the national securities and futures exchanges trading such securities and futures, as applicable, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio

[17] The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[18] Under accounting procedures followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[19] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate Portfolio Indicative Values taken from CTA or other data feeds.

holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[20] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[21] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the Intermarket Surveillance Group (''ISG''), or with which the Exchange has in place a comprehensive surveillance sharing agreement.[22] The Chicago Mercantile Exchange (''CME''), the Chicago Board of Trade, the New York Mercantile Exchange (''NYMEX''), and ICE Futures U.S. are members of ISG, and the Exchange may obtain market surveillance information with respect to transactions occurring on the COMEX pursuant to the ISG memberships of CME and NYMEX. The Exchange has in place a comprehensive surveillance sharing agreement with the Kansas City Board of Trade and ICE Futures U.K. relating to trading of applicable components of the Benchmark.

In addition, with respect to futures contracts in which the Subsidiary invests, not more than 10% of the weight of such futures contracts in the aggregate shall consist of futures contracts whose principal trading market (a) is not a member of ISG or (b) is a market with which the Exchange does not have a comprehensive surveillance sharing agreement, provided that, so long as the Exchange may obtain market surveillance information with respect to transactions occurring on the COMEX pursuant to the ISG memberships of CME and NYMEX, futures contracts whose principal trading market is COMEX shall not be subject to the prohibition in (a), above.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value will be disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[23] that an exchange have rules that are 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, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place

[20] *See* NYSE Arca Equities Rule 7.12, Commentary .04.

[21] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[22] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[23] 15 U.S.C. 78f(b)(5).

surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the Benchmark Components are traded, or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Adviser is not a broker-dealer but is affiliated with a broker-dealer, and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Fund will invest up to 25% of its total assets in the Subsidiary. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the ISG, or with which the Exchange has in place a comprehensive surveillance sharing agreement. The CME, the Chicago Board of Trade, the NYMEX, and ICE Futures U.S. are members of ISG, and the Exchange may obtain market surveillance information with respect to transactions occurring on the COMEX pursuant to the ISG memberships of CME and NYMEX. The Exchange has in place a comprehensive surveillance sharing agreement with the Kansas City Board of Trade and ICE Futures U.K. relating to trading of applicable components of the Benchmark. In addition, with respect to futures contracts in which the Subsidiary invests, not more than 10% of the weight of such futures contracts in the aggregate shall consist of futures contracts whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement, as described above under ''Surveillance.'' The Fund will limit its investments in illiquid securities, including Rule 144A securities and master demand notes, to 15% of its net assets. The Fund will not invest directly in Futures Instruments and the Fund expects to exclusively gain exposure to these futures investments by investing in the Subsidiary. The Fund will not invest in any non-U.S. equity securities (other than shares of the Subsidiary). The Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2X and 3X) of the Fund's Benchmark. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily, and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Portfolio Indicative Value will be widely disseminated through the facilities of the CTA or by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in a Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which trading in Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares. The intra-day, closing and settlement prices of the portfolio investments (*e.g.,* Futures Instruments, ETFs, Underlying ETPs and fixed income securities) are also readily available from the national securities and futures exchanges trading such securities and futures, as applicable, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. The Fund will not invest in any non-U.S. equity securities (other than shares of the Subsidiary), and the Subsidiary will not invest in any non-U.S. equity securities.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 purpose of the Act. The proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that invests in exchange-listed futures contracts and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–52 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–2013–52.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–NYSEArca–2013–52* and should be submitted on or before June 20, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–12846 Filed 5–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69622; File No. SR–NYSE–2013–07]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Disapprove Proposed Rule Change Amending NYSE Rules 451 and 465, and the Related Provisions of Section 402.10 of the NYSE Listed Company Manual, Which Provide a Schedule for the Reimbursement of Expenses by Issuers to NYSE Member Organizations for the Processing of Proxy Materials and Other Issuer Communications Provided to Investors Holding Securities in Street Name, and To Establish a Five-Year Fee for the Development of an Enhanced Brokers Internet Platform

May 23, 2013.

I. Introduction

On February 1, 2013, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the fees set forth in NYSE Rules 451 and 465, and the related provisions of Section 402.10 of the NYSE Listed Company Manual, for the reimbursement of expenses by issuers to NYSE member organizations for the processing of proxy materials and other issuer communications provided to investors holding securities in street name, and to establish a five-year fee for the development of an enhanced brokers internet platform. The proposed rule change was published for comment in the **Federal Register** on February 22, 2013.[3] The Commission received 28 comments on the proposal.[4] On April 3, 2013, the Commission designated a longer period for Commission action on the proposed rule change, until May 23, 2013.[5] The Exchange submitted a response to the comments on May 17, 2013.[6]

This order institutes proceedings under Section 19(b)(2)(B) of the Act to determine whether to disapprove the proposed rule change.

II. Background

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[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68936 (February 15, 2013), 78 FR 12381 (''Notice'').

[4] *See* letters to Elizabeth M. Murphy, Secretary, Commission from: Charles V. Rossi, President, The Securities Transfer Association, dated February 20, 2013 (''STA Letter'') and March 4, 2013 (''STA Letter II''); Karen V. Danielson, President, Shareholder Services Association, dated March 4, 2013 (''SSA Letter''); Jeanne M. Shafer, dated March 6, 2013 (''Schafer Letter''); David W. Lovatt, dated March 6, 2013 (''Lovatt Letter''); Stephen Norman, Chair, The Independent Steering Committee of Broadridge, dated March 7, 2013 (''Steering Committee Letter''); Jeffrey D. Morgan, President & CEO, National Investor Relations Institute, dated March 7, 2013 (''NIRI Letter''); Kenneth Bertsch, President and CEO, Society of Corporate Secretaries & Governance Professionals, dated March 7, 2013 (''SCSGP Letter''); Niels Holch, Executive Director, Shareholder Communications Coalition, dated March 12, 2013 (''SCC Letter''); Geoffrey M. Dugan, General Counsel, iStar Financial Inc., dated March 13, 2013 (''iStar Letter''); Paul E. Martin, Chief Financial Officer, Perficient, Inc., dated March 13, 2013 (''Perficient Letter''); John Harrington, President, Harrington Investments, Inc., dated March 14, 2013 (''Harrington Letter''); James McRitchie, Shareowner, Corporate Governance, dated March 14, 2013 (''CG Letter''); Clare A. Kretzman, General Counsel, Gartner, Inc., dated March 15, 2013 (''Gartner Letter''); Tom Quaadman, Vice President, Center for Capital Markets Competitiveness, dated March 15, 2013 (''CCMC Letter''); Dennis E. Nixon, President, International Bancshares Corporation, dated March 15, 2013 (''IBC Letter''); Argus I. Cunningham, Chief Executive Officer, Sharegate Inc., dated March 15, 2013 (''Sharegate Letter''); Laura Berry, Executive Director, Interfaith Center on Corporate Responsibility, dated March 15, 2013 (''ICC Letter''); Dorothy M. Donohue, Deputy General Counsel—Securities Regulation, Investment Company Institute, dated March 15, 2013 (''ICI Letter''); Charles V. Callan, Senior Vice President—Regulatory Affairs, Broadridge Financial Solutions, Inc., dated March 15, 2013 (''Broadridge Letter''); Brad Philips, Treasurer, Darling International Inc., dated March 15, 2013 (''Darling Letter''); John Endean, President, American Business Conference, dated March 18, 2013 (''ABC Letter'); Tom Price, Managing Director, The Securities Industry and Financial Markets Association, dated March 18, 2013 (''SIFMA Letter''); Michael S. O'Brien, Vice President—Corporate Governance Officer, BNY Mellon, dated March 28, 2013 (''BNY Letter''); Jeff Mahoney, General Counsel, Council of Institutional Investors, dated April 5, 2013 (''CII Letter''); Paul Torre, Executive Vice President, AST Fund Solutions, LLC, dated May 16, 2013 (''AST Letter''); and John M. Payne, Chief Executive Officer, Zumbox, Inc., dated May 20, 2013 (''Zumbox Letter''); *see also* letter to the Honorable Mary Jo White, Chair, Commission from Dieter Waizenegger, Executive Director, CtW Investment Goup, dated May 17, 2013 (''CtW Letter'').

[5] *See* Securities Exchange Act Release No. 69286 (April 3, 2013), 78 FR 21481 (April 10, 2013).

[6] *See* Letter to Elizabeth M. Murphy, Secretary, Commission from Janet McGinnis, EVP & Corporate Secretary, NYSE Euronext, dated May 17, 2013 (''NYSE Letter'').

name solicit proxies from, and deliver proxy and issuer communication materials to, beneficial owners on behalf of NYSE issuers.[7] For this service, issuers reimburse NYSE member organizations for out-of-pocket, reasonable clerical, postage and other expenses incurred for a particular distribution. This reimbursement structure stems from SEC Rules 14b–1 and 14b–2 under the Act,[8] which impose obligations on companies and nominees to ensure that beneficial owners receive proxy materials and are given the opportunity to vote. These rules require companies to send their proxy materials to nominees, *i.e.,* broker-dealers or banks that hold securities in street name, for forwarding to beneficial owners. Under these rules, companies must pay nominees for reasonable expenses, both direct and indirect, incurred in providing proxy information to beneficial owners. The Commission's rules do not specify the fees that nominees can charge issuers for proxy distribution; rather, they state that issuers must reimburse the nominees for ''reasonable expenses'' incurred.[9]

Currently, the Supplementary Material to NYSE Rules 451 and 465 establish the fee structure for which a NYSE member organization may be reimbursed for expenses incurred in connection with distributing proxy materials to beneficial owners.[10] This fee structure is also replicated in Section 402.10 of the NYSE Listed Company Manual.[11] The NYSE fee structure represents the maximum approved rates that an issuer can be billed for proxy distribution services absent prior notification to and consent of the issuer.[12] NYSE member firms may seek reimbursement for less than the approved rates;[13] however, it is the Commission's understanding that in practice most issuers are billed at the maximum approved rates.

The vast majority of nominees that distribute issuer proxy material to beneficial owners are entitled to reimbursement at the NYSE fee schedule rates because most of the brokerage firms are NYSE members or members of other exchanges that have rules similar to the NYSE's rules.[14] Over time, however, NYSE member organizations increasingly have outsourced their proxy delivery obligations to third-party proxy service providers, which are generally called ''intermediaries,'' rather than handling proxy processing internally.[15] At the present time, a single intermediary, Broadridge Financial Solutions, Inc. (''Broadridge''), handles almost all proxy processing and distribution to beneficial owners holding shares in street name in the United States.[16] In general, Broadridge enters into a contract with the NYSE member firm and acts as a billing and collection agent for that member firm.[17] As a result, it is Broadridge that, on behalf of its member firm clients, most frequently bills and collects proxy distribution fees from issuers based on the NYSE fee schedule.[18]

The NYSE's current proxy fee structure is the product of a multi-year, multi-task force effort that began in 1995 and culminated in 2002 with the Commission's approval of an NYSE program that significantly revised the then-current NYSE reimbursement guidelines.[19] In the 2002 Approval Order, the Commission stated that, as long as the NYSE's proxy fee structure remains in place, the Commission expected the NYSE to periodically review the fees to ensure that they are related to the reasonable proxy expenses of the NYSE member firms, and to propose changes as appropriate.[20] Similarly, in the Proxy Concept Release, the Commission stated that ''it appears to be an appropriate time for SROs to review their existing fee schedules to determine whether they continue to be reasonably related to the actual costs of proxy solicitation.''[21] As is also noted in the Proxy Concept Release, in 2006, a working group formed to review the NYSE proxy fee structure (''Proxy Working Group'') recommended that the NYSE engage an independent third party to analyze and make recommendations regarding the fee structure and to study the performance of the largest proxy service provider (*i.e.,* Broadridge) and the business process by which the distribution of proxies occurs.[22] The Proxy Concept Release further noted that, as of the date of the release, such review had not been done.[23]

The proposed rule change represents the most recent effort to revise the NYSE proxy fee structure. In September 2010, the Exchange formed a Proxy Fee Advisory Committee (''PFAC'') to review the existing NYSE fee structure and make recommendations for change as the PFAC deemed appropriate.[24] The proposed rule change is an outgrowth of the PFAC's recommendations.[25]

III. Description of the Proposal

In the proposal, the Exchange has proposed to amend the Supplementary Material to NYSE Rules 451 and 465, and Section 402.10 of the NYSE Listed Company Manual.[26] The Exchange represents that the proposed changes reduce some fees and increase others.[27] Broadridge has estimated that, under the proposed changes, overall fees paid by

[7] The ownership of shares in street name means that a shareholder, or ''beneficial owner,'' has purchased shares through a broker-dealer or bank, also known as a ''nominee.'' In contrast to direct ownership, where shares are directly registered in the name of the shareholder, shares held in street name are registered in the name of the nominee, or in the nominee name of a depository, such as the Depository Trust Company. For more detail regarding share ownership, *see* Securities Exchange Act Release No. 62495 (July 14, 2010), 75 FR 42982 (July 22, 2010) (Concept Release on the U.S. Proxy System) (''Proxy Concept Release'').

[8] 17 CFR 240.14b–1; 17 CFR 240.14b–2.

[9] In adopting the direct shareholder communications rules in the early 1980s, the Commission left the determination of reasonable costs to the self-regulatory organizations (''SROs'') because they were deemed to be in the best position to make fair evaluations and allocations of costs associated with these rules. *See* Securities Exchange Act Release No. 20021 (July 28, 1983), 48 FR 35082 (August 3, 1983); *see also* Securities Exchange Act Release No. 45644 (March 25, 2002), 67 FR 15440, 15440 n.8 (April 1, 2002) (order approving NYSE program revising reimbursement rates) (''2002 Approval Order'').

[10] *See* Rules 451 and 465; *see also* Proxy Concept Release, 75 FR at 42995. The current NYSE fee schedule under the Supplementary Material to Rule 451 for expenses incurred in connection with proxy solicitations is the same as the current fee schedule for expenses incurred in mailing interim reports or other material pursuant to the Supplementary Material to Rule 465. *See also* Proxy Concept Release, 75 FR at 42995 n.109.

[11] *See* Section 402.10, NYSE Listed Company Manual.

[12] *See* Rules 451.93 and 465.23.

[13] *Id.*

[14] *See* Proxy Concept Release, 75 FR at 42995 n.110.

[15] *See* 2002 Approval Order, 67 FR at 15540. According to the NYSE, this shift was attributable to the fact that NYSE member firms believed that proxy distribution was not a core broker-dealer business and that capital could be better used elsewhere. *Id.*

[16] *See* Proxy Concept Release, 75 FR at 42996 and n.129; *see also* Notice, 78 FR at 12382.

[17] *See* Proxy Concept Release, 75 FR at 42997.

[18] *Id.* The Commission understands that Broadridge currently bills issuers, on behalf of its broker-dealer clients, the maximum fees allowed by NYSE Rules 451 and 465. *Id.*

[19] *See* 2002 Approval Order; *see also* Notice, 78 FR at 12383.

[20] *See* 2002 Approval Order, 67 FR at 15444.

[21] *See* Proxy Concept Release, 75 FR at 42997; *see also* Notice, 78 FR at 12382.

[22] *See* Proxy Concept Release, 75 FR at 42996.

[23] *Id.*

[24] *See* Notice, 78 FR at 12382.

[25] For a more detailed description of the background and history of the proxy distribution industry, proxy fees, and events leading to the instant proposal, *see* the 2002 Approval Order, Proxy Concept Release, and Notice.

[26] The Exchange has proposed to amend Rule 451 and to delete the text of Rule 465, which duplicates Rule 451, and replace it with a general cross reference to proposed Rule 451. Proposed Section 402.10 of the NYSE Listed Company Manual would reproduce proposed Rule 451 as amended. *See* notes 35 and 36 and accompanying text, *infra.*

[27] *See* Notice, 78 FR at 12384.

issuers would decrease by approximately 4%.[28]

Currently, the reimbursement rates set by the Exchange for the distribution of an issuer's proxy materials include:[29]

- A base mailing or basic processing fee of $0.40 for each beneficial owner account of an issuer that is entitled to receive proxy materials when there is not an opposing proxy. When there is an opposing proxy, the base mailing or processing unit fee is $1.00 for each beneficial owner account of the issuer. While NYSE Rule 451.90(1) currently refers to this fee as being for each set of proxy material when mailed as a unit, this fee, in practice, applies regardless of whether the materials have been mailed or the mailing has been suppressed or eliminated.[30]
- As supplemental fees for intermediaries or proxy service providers that coordinate proxy distributions for multiple nominees, a fee of $20 per nominee plus an additional fee of $0.05 per beneficial owner account for issuers whose securities are held in 200,000 or more beneficial owner accounts and $0.10 per beneficial owner account for issuers whose securities are held in fewer than 200,000 beneficial owner accounts.[31]
- An incentive fee of $0.25 per beneficial owner account for issuers whose securities are held in 200,000 or more beneficial owner accounts and $0.50 per beneficial owner account for issuers whose securities are held in fewer than 200,000 beneficial owner accounts. This fee, which is in addition to the basic processing fee and supplemental intermediary fees, applies when the need to mail materials in paper format has been eliminated, for instance, by eliminating duplicative mailings to multiple accounts at the same address[32] or distributing some or all material electronically.[33]

As an initial, technical matter, the Exchange has proposed to eliminate some of the duplication and obsolete language in the NYSE rules in which the fee schedule is set forth.[34] The same proxy fees are currently presented multiple times in Rule 451, Rule 465 and Section 402.10 of the Listed Company Manual.[35] To clarify matters, proposed Rules 465.20–465.25 would cross-reference proposed Rules 451.90–451.95, and proposed Section 402.10 of the Listed Company Manual would reproduce the text of proposed Rules 451.90–451.95.[36] Additionally, the proposed rule change would eliminate obsolete references to the effective dates of past changes to the fee structure as well as to the amount of a surcharge, set forth in Rule 451.91, that was temporarily applied in the mid-1980s.[37] Further, the Exchange has proposed to eliminate several references to ''mailings'' in the proposed rules, given that the processing fees apply even where physical mailings have been suppressed.[38] Lastly, the Exchange has proposed to eliminate several minor minimum fees of $5 or less as irrelevant to the overall fees imposed or collected.[39]

Substantively, the Exchange has proposed to revise certain aspects of the existing fee schedule and add new fees.[40] These revisions, described in turn below, include: (a) Amending the base mailing/basic processing fees; (b) amending the supplemental fees for intermediaries that coordinate proxy mailings for multiple nominees; (c) amending the incentive/preference management fees, including the manner in which such fees are applied to managed accounts; (d) adding fees for proxy materials distributed by what is known as the notice and access method; (e) adding fees for enhanced brokers' internet platforms; and (f) amending the fees for providing beneficial ownership information.[41] In addition, notwithstanding any other provision of proposed Rule 451.90, the Exchange has proposed that no fee be incurred by an issuer for any nominee account that contains only a fractional share—*i.e.,* less than one share or unit—of the issuer's securities or for any nominee account that is a managed account and contains five or fewer shares or units of the issuer's securities.[42]

A. Base Mailing/Basic Processing Fees

As set forth above, there is currently a fee of $0.40 for each beneficial owner account of an issuer that is entitled to receive proxy materials when there is not an opposing proxy.[43] This fee is commonly referred to as the base mailing or basic processing fee.[44] The Exchange has proposed to replace this flat $0.40 fee with a tiered fee structure for each set of proxy material processed as a unit, which the Exchange has proposed to call a ''Processing Unit Fee.''[45] The tiers would be based on the number of nominee accounts through which an issuer's securities are beneficially owned:

- $0.50 for each account up to 10,000 accounts;
- $0.47 for each account above 10,000 accounts, up to 100,000 accounts;
- $0.39 for each account above 100,000 accounts, up to 300,000 accounts;

[28] *Id.*

[29] *See* NYSE Rules 451.90–451.95, 465.20–465.25, and Section 402.10 of the NYSE Listed Company Manual; *see also* Proxy Concept Release, 75 FR at 42995–96. For an example of the application of the current reimbursement rates, *see* Proxy Concept Release, 75 FR at 42996 n.120.

[30] *See* NYSE Rules 451.90, 465.20, and Section 402.10(A) of the NYSE Listed Company Manual; *see also* Proxy Concept Release, 75 FR at 42996.

[31] *Id.*

[32] *Id.* The elimination of duplicative mailings to multiple accounts at the same address is referred to as ''householding.'' *See* Proxy Concept Release, 75 FR at 42983 n.5; *see also* NYSE Rule 451.95. Specifically, the incentive fee may be collected for such ''householding'' when NYSE member firms ''eliminate multiple transmissions of reports, statements or other materials to beneficial owners having the same address, provided they comply with applicable SEC rules with respect thereto. . . .'' NYSE Rule 451.95.

[33] Proxy materials can be provided electronically to shareholders that have affirmatively consented to electronic delivery. *See* Proxy Concept Release, 75 FR at 42986 n.32. Such affirmative consent also is required before the notice of internet availability of proxy materials—a component of the notice and access method of proxy distribution, which is an additional alternative to paper mailing of proxy materials, as discussed below—can be sent to shareholders electronically. *Id.* Without such consent, the notice must be mailed to shareholders in paper format. *Id.*

[34] *See* Notice, 78 FR at 12390.

[35] *Id.*

[36] *Id.* Where the proposed Rules are cited below, for the sake of simplicity, such citations will include only Rules 451.90–451.95 and not the corresponding provisions of proposed Section 402.10 of the NYSE Listed Company Manual.

[37] *See* Notice, 78 FR at 12390.

[38] *Id.*

[39] *Id.* Proposed Rule 451.90(3), which would set forth the fee for interim reports and other material, is an example of the proposed technical amendments. As proposed, the pre-existing $0.15 fee in current Rule 451.90 would not change, but the $2.00 minimum for all sets mailed would be eliminated, and the language of the rule would be amended to eliminate the reference to the effective date of the pre-existing rule and to replace the word ''mailed'' with ''processed.'' *See* proposed Rule 451.90(3).

[40] The Exchange has also proposed to codify definitions of the terms ''nominee'' and ''intermediary.'' Under proposed Rule 451.90(1)(a), the term ''nominee'' would be defined to mean a broker or bank subject to SEC Rule 14b–1 or 14b-2, respectively, and the term ''intermediary'' would be defined to mean a proxy service provider that coordinates the distribution of proxy or other materials for multiple nominees.

[41] *See* proposed Rule 451.90.

[42] *See* proposed Rule 451.90(6).

[43] *See* Rule 451.90; *see also* Proxy Concept Release, 75 FR at 42996.

[44] *See* Notice, 78 FR at 12385; *see also* Proxy Concept Release, 75 FR at 42996.

[45] *See* proposed Rule 451.90(1)(b)(i). The Exchange has not proposed to replace the current $0.40 flat fee for proxy follow-up materials with a tiered structure. The Exchange has proposed to keep a flat Processing Unit Fee of $0.40 per account for each set of follow-up material, but for those relating to an issuer's annual meeting for the election of directors, the Exchange has proposed to reduce the fee by half, to $0.20 per account. *See* proposed Rule 451.90(2). The Exchange notes that issuers have a choice whether or not to use reminder mailings, and that the reduced fee may induce more issuers to use reminder mailings, which could increase investor participation, particularly among retail investors. *See* Notice, 78 FR at 12390.

• $0.34 for each account above 300,000 accounts, up to 500,000 accounts;

• $0.32 for each account above 500,000 accounts.[46]

Under this tiered schedule, every issuer would pay the first tier rate—$0.50—for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only to the incremental additional accounts in the additional tiers.[47]

In addition, the Exchange has proposed to clarify that references in proposed Rule 451 to the ''number of accounts'' have a different meaning for a nominee that distributes proxy materials without the services of an intermediary as compared to a nominee that is served by an intermediary. For a nominee that distributes proxy materials without the services of an intermediary, references to number of accounts in proposed Rule 451 mean the number of accounts holding securities of the issuer at the nominee.[48] For a nominee that is served by an intermediary, such references mean the aggregate number of nominee accounts with beneficial ownership in the issuer served by the intermediary.[49] As the Exchange has noted in the proposal, this means that, for a particular issuer, the fee charged by an intermediary or a nominee that self-distributes (and therefore does not use an intermediary) within the different tiers will depend on the number of accounts holding shares in that issuer that are served by the intermediary or held by the particular nominee.[50] Accordingly, for an issuer with a large number of beneficial accounts, intermediaries or self-distributing nominees serving a small portion of the issuer's accounts would bill the issuer at the higher tier-one rates whereas an intermediary serving a large number of the issuer's accounts would bill the issuer at rates that reflect the progressive decrease in rates across the tiers as the number of accounts served increases.[51]

The Exchange has also proposed to specify that, in the case of a meeting for which an opposition proxy has been furnished to security holders, the proposed Processing Unit Fee shall be $1.00 per account, in lieu of the tiered fee schedule set forth above.[52] This would, therefore, be no departure from the current $1.00 fee that is assessed when an opposition proxy has been furnished.

B. Supplemental Intermediary Fees

As stated above, the Exchange's fee schedule currently provides for supplemental fees for intermediaries or proxy service providers that coordinate proxy distributions for multiple nominees of $20 per nominee, plus an additional fee of $0.05 per beneficial owner account for issuers whose securities are held in 200,000 or more beneficial owner accounts and $0.10 per beneficial owner account for issuers whose securities are held in fewer than 200,000 beneficial owner accounts.[53] The Exchange has proposed to replace the $20 per-nominee fee with a $22 fee for each nominee served by the intermediary that has at least one account beneficially owning shares in the issuer.[54] The Exchange has also proposed to replace the $0.05 and $0.10 fees, which are determined based on whether or not the issuer's securities are held in at least 200,000 beneficial owner accounts, with a tiered fee structure called the ''Intermediary Unit Fee,'' which would be based on the number of nominee accounts through which the issuer's securities are beneficially owned:

• $0.14 for each account up to 10,000 accounts;

• $0.13 for each account above 10,000 accounts, up to 100,000 accounts;

• $0.11 for each account above 100,000 accounts, up to 300,000 accounts;

• $0.09 for each account above 300,000 accounts, up to 500,000 accounts;

• $0.07 for each account above 500,000 accounts.[55]

Under this tiered schedule, every issuer would pay the first tier rate—$0.14—for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only to the incremental additional accounts in the additional tiers.[56]

Additionally, the Exchange has proposed the following tiered fee schedule for special meetings that would apply in lieu of the schedule set forth immediately above:

• $0.19 for each account up to 10,000 accounts;

• $0.18 for each account above 10,000 accounts, up to 100,000 accounts;

• $0.16 for each account above 100,000 accounts, up to 300,000 accounts;

• $0.14 for each account above 300,000 accounts, up to 500,000 accounts;

• $0.12 for each account above 500,000 accounts.[57]

Under this tiered schedule, every issuer would pay the first tier rate—$0.19—for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only to the incremental additional accounts in the additional tiers.[58] The Exchange has proposed that, for purposes of proposed Rule 451.90(1)(c)(iii), a special meeting is a meeting other than the issuer's meeting for the election of directors.[59]

The Exchange has also proposed that, in the case of a meeting for which an opposition proxy has been furnished to security holders, the proposed Intermediary Unit Fee shall be $0.25 per account, with a minimum fee of $5,000.00 per soliciting entity, in lieu of the tiered fee schedules set forth in proposed Rules 451.90(1)(c)(ii) and (iii).[60] Where there are separate solicitations by management and an opponent, the Exchange has proposed that the opponent would be separately billed for the costs of its solicitation.[61]

The Exchange estimates that the proposed tiered fee structures discussed above—for the Intermediary Unit Fee as well as the proposed Processing Unit Fee—entail fee increases that are estimated to add approximately $9–10 million to overall proxy distribution fees.[62] The Exchange states that the PFAC took note of the fact that since the fees were last revised in 2002, there has been an effective decline in the fees of approximately 20% due to the impact of inflation.[63] The Exchange also states that the PFAC believed that economies of scale exist when handling distributions for more widely held issuers, which is why the per-account fees decrease as the number of accounts increases.[64] Further, the Exchange believes that its proposed tiered structures would approximate the sliding impact of such economies of scale better than the current processing and intermediary fee structures.[65]

C. Incentive/Preference Management Fees

As stated above, the Exchange's fee schedule currently provides for an

[46] *See* proposed Rule 451.90(1)(b)(i).

[47] *Id.*

[48] *Id.*

[49] *Id.*

[50] *See* Notice, 78 FR at 12385 n.20.

[51] *Id.*

[52] *See* proposed Rule 451.90(1)(b)(ii).

[53] *See* Rule 451.90; *see also* Proxy Concept Release, 75 FR at 42996.

[54] *See* proposed Rule 451.90(1)(c)(i).

[55] *See* proposed Rule 451.90(1)(c)(ii).

[56] *Id.*

[57] *See* proposed Rule 451.90(1)(c)(iii).

[58] *Id.*

[59] *Id.*

[60] *See* proposed Rule 451.90(1)(b)(iv).

[61] *Id.*

[62] *See* Notice, 78 FR at 12385.

[63] *Id.* at 12384.

[64] *Id.* at 12385.

[65] *Id.*

incentive or preference management fee of $0.25 per beneficial owner account for issuers whose securities are held in 200,000 or more beneficial owner accounts and $0.50 per beneficial owner account for issuers whose securities are held in fewer than 200,000 beneficial owner accounts.[66] The Exchange has proposed to refer to this fee as the ''Preference Management Fee'' and to amend it to be: (a) $0.32 for each set of proxy material described in proposed Rule 451.90(1)(b) (proxy statement, form of proxy and annual report when processed as a unit), unless the account is a Managed Account (as defined in proposed Rule 451.90(6), discussed below), in which case the fee would be $0.16;[67] and (b) $0.10 for each set of material described in proposed Rule 451.90(2) (proxy follow-up material) or proposed Rule 451.90(3) (interim reports and other material).[68] The Preference Management Fee would apply to each beneficial owner account for which the nominee has eliminated the need to send materials in paper format through the mails (or by courier service), and would be in addition to, and not in lieu of, the other proposed fees.[69]

The Preference Management Fee would apply not only in the year when paper delivery is first eliminated, but also in each year thereafter.[70] The Exchange represents that the PFAC was persuaded that there was significant processing work involved in keeping track of the shareholders' election, especially given that the shareholder is entitled to change that election from time to time.[71] According to the Exchange, although few shareholders do in fact change their election, data processing has to look at each account position relative to each shareholder meeting or proxy distribution event to determine whether paper mailing has been eliminated.[72]

1. Managed Accounts

For purposes of proposed Rule 451.90, the Exchange has proposed to define the term ''Managed Account'' as:

> [A]n account at a nominee which is invested in a portfolio of securities selected by a professional advisor, and for which the account holder is charged a separate asset-based fee for a range of services which may include ongoing advice, custody and execution services. The advisor can be either employed by or affiliated with the nominee, or a separate investment advisor contracted for the purpose of selecting investment portfolios for the managed account. Requiring that investments or changes to the account be approved by the client would not preclude an account from being a ''managed account'' for this purpose, nor would the fact that commissions or transaction-based charges are imposed in addition to the asset-based fee.[73]

As noted above, the Exchange has proposed that the Preference Management Fee applied to Managed Accounts be half that applied to non-managed accounts.[74] In the proposal, the Exchange notes that, with Managed Accounts, the investor has elected to delegate the voting of its shares to a broker or investment manager who chooses to manage this process electronically rather than by receiving multiple paper copies of proxy statements and voting instructions.[75] According to the Exchange, however, tracking the beneficial owner's voting and distribution election is as necessary with Managed Accounts as it is with any other proxy distribution election eliminating the need for paper mailing, such as consent to e-delivery.[76] But the Exchange states that the PFAC concluded that making some distinctions between Managed Accounts and non-managed accounts for fee purposes was appropriate.[77] Among other things, the Exchange states that the popularity of Managed Accounts demonstrates that they offer advantages to investors and brokerage firms.[78] The Exchange states that issuers also reap benefits from inclusion in Managed Account portfolios, including the added investment in the company's stock and a higher rate of voting due to the fact that almost all Managed Account investors delegate voting to the investment manager.[79] Since both issuers and brokers benefit from Managed Accounts, the Exchange represents that the PFAC determined that issuers and brokers should share the cost of tracking the voting and distribution elections of beneficial owners of the stock positions in Managed Accounts, and therefore recommended that the Exchange propose a Preference Management Fee for Managed Accounts at a rate that is half that for other accounts.[80]

Additionally, in recognition of what the Exchange notes is a proliferation of Managed Accounts containing a very small number of an issuer's shares, the Exchange, as noted above, has proposed not to impose any proxy processing fees, including the Preference Management Fee, on an issuer for a Managed Account holding five or fewer shares or units of the issuer's securities.[81] The Exchange states that in certain situations in which Managed Accounts hold very small numbers of shares of an issuer, the benefits of increased stock ownership and increased voting participation were practically nonexistent for the issuer, while the added expense on a relative basis was extraordinary.[82] According to the Exchange, because one of the PFAC's goals was to avoid severe impacts on proxy distribution in the United States, the PFAC drew the line at five shares based on certain information supplied by Broadridge, including information from the 2011 proxy season depicting what the financial impact on proxy revenue would have been of setting the fee proscription for Managed Accounts at different levels.[83] According to the Exchange, setting the proscription at five shares or less in the 2011 proxy season would have created an overall decrease in proxy revenue of approximately $4.2 million.[84] The Exchange states that the PFAC determined that five shares or less was the appropriate level to draw the line

[66] *See* Rule 451.90.

[67] *See* proposed Rule 451.90(4)(a). The $0.16 Preference Management Fee for Managed Accounts would apply only to Managed Accounts holding more than five shares or units of an issuer's securities, as the Exchange has proposed that there be no proxy processing fees charged to an issuer for Managed Accounts holding five or fewer shares or units of the issuer's securities. *See* note 42 and accompanying text, *supra,* and discussion of Managed Accounts, *infra.*

[68] *See* proposed Rule 451.90(4)(b); *see also* notes 39 and 45, *supra,* which discuss proposed Rules 451.90(2) and 451.90(3).

[69] *See* proposed Rule 451.90(4). The need for paper mailings can be eliminated through several alternative methods of distribution, such as householding, electronic delivery, and notice and access. *See* notes 32 and 33, *supra,* and discussion of notice and access, *infra.*

[70] *See* Notice, 78 FR at 12386.

[71] *Id.*

[72] *Id.*

[73] *See* Proposed Rule 451.90(6); *see also* Notice, 78 FR at 12388.

[74] *See* Proposed Rule 451.90(4)(a). The Exchange represents that its proposal that the Preference Management Fee applied to Managed Accounts be half that applied to non-managed accounts would result in an estimated $15 million reduction in fees. *See* Notice, 78 FR at 12385.

[75] *See* Notice, 78 FR at 12387.

[76] *Id.* In support of this the Exchange states that Commission rules require each beneficial owner holding shares in a Managed Account to be treated as the individual owner of those shares for purposes of having the ability to elect to vote those shares and receive proxy materials. *Id.*

[77] *Id.*

[78] *Id.*

[79] *Id.*

[80] *Id.*

[81] *See* proposed Rule 451.90(6); *see also* Notice, 78 FR at 12388.

[82] *See* Notice, 78 FR at 12388.

[83] *Id.* The Exchange represents that, based on the Broadridge-supplied information, the overall impact varied from approximately $2.6 million at the fractional (less than one) share level, up to approximately $16 million if the proscription applied to accounts holding 25 shares or less. *Id.*

[84] *Id.* The Commission understands that this figure does not account for the inclusion of wrap accounts in the proposed fee structure for Managed Accounts.

and that the PFAC ''was comfortable that, given the relative benefit/burden on issuers and brokerage firms, it is not reasonable to make issuers reimburse the cost of proxy distribution to managed accounts holding five shares or less.'' [85]

Lastly, the Exchange states that no fee distinction would be based on whether or not a Managed Account is referred to as a ''wrap account.'' [86] As described by the Exchange, a wrap account is a managed account product with a relatively low minimum investment that tends to have many very small, even fractional, share positions, which led Broadridge to process such wrap accounts without any charge—either for basic processing or incentive fees.[87] Broadridge relied on its client firms to specify whether or not an account should be treated as a wrap account for this purpose, and positions in small minimum investment managed accounts which were not marketed with that appellation were subjected to ordinary fees, including incentive fees.[88] Under the Exchange's proposal, accounts identified as wrap accounts would no longer be treated as distinct from Managed Accounts not identified as such, and would therefore be subject to the same proxy fees as Managed Accounts.

D. Notice and Access Fees

The Commission has adopted a notice and access model that permits issuers to send shareholders what is called a ''Notice of Internet Availability of Proxy Materials'' in lieu of the traditional paper mailing of proxy materials.[89] Currently, the NYSE proxy fee structure does not include maximum fees that member firms—or, in practice, third-party proxy service providers—can charge issuers for deliveries of proxy materials using the notice and access method.[90] Broadridge currently imposes fees on issuers for use of the notice and access method, in addition to the other fees permitted to be charged under NYSE Rule 451.90.[91] In the proposal, the Exchange has proposed to codify the notice and access fees currently charged by Broadridge, with one adjustment.[92]

Specifically, for issuers that elect to utilize the notice and access method of proxy distribution, the Exchange has proposed an incremental fee based on all nominee accounts through which the issuer's securities are beneficially owned, as follows:

- $0.25 for each account up to 10,000 accounts;
- $0.20 for each account over 10,000 accounts, up to 100,000 accounts;
- $0.15 for each account over 100,000 accounts, up to 200,000 accounts;
- $0.10 for each account over 200,000 accounts, up to 500,000 accounts;
- $0.05 for each account over 500,000 accounts.[93]

The Exchange has also proposed to clarify that, under this schedule, every issuer would pay the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only to the incremental additional accounts in the additional tiers.[94] The Exchange has further proposed that follow-up notices would not incur an incremental fee for notice and access, and that no incremental fee would be imposed for fulfillment transactions (*i.e.,* a full pack of proxy materials sent to a notice recipient at the recipient's request), although out of pocket costs such as postage would be passed on as in ordinary proxy distributions.[95]

E. Enhanced Brokers' Internet Platform Fee

In the Proxy Concept Release, the Commission solicited views on whether retail investors might be encouraged to vote if they received notices of upcoming corporate votes, and had the ability to access proxy materials and vote, through their own broker's Web site—a service that the Commission referred to as enhanced brokers' internet platforms (''EBIP'').[96] According to the Exchange, Broadridge discussed with the PFAC a similar service that it offers, and maintained that while some brokerage firms have already implemented services like the EBIP, it appeared likely that some financial incentive would be necessary to achieve widespread adoption.[97]

Accordingly, the Exchange has proposed, for a five-year test period, a one-time, supplemental fee of $0.99 for each new account that elects, and each full package recipient among a brokerage firm's accounts that converts to, electronic delivery while having access to an EBIP.[98] According to the Exchange, this fee is intended to persuade firms to develop and encourage the use of EBIPs by their customers.[99] To qualify for the fee, an EBIP would have to provide notices of upcoming corporate votes, including record and meeting dates for shareholder meetings, and the ability to access proxy materials and a voting instruction form, and cast the vote, through the investor's account page on the firm's Web site without an additional log-in.[100] This fee would not apply to electronic delivery consents captured by issuers, positions held in Managed Accounts, or accounts voted by investment managers using electronic voting platforms.[101] This fee also would not be triggered by accounts that receive a notice pursuant to notice and access or accounts to which mailing is suppressed by householding.[102]

The Exchange has proposed to require NYSE member organizations with a qualifying EBIP to provide notice thereof to the Exchange, including the date such EBIP became operational, and any limitations on the availability of the EBIP to its customers.[103] The Exchange has also noted in the proposed rule that records of conversions to electronic delivery by accounts with access to an EBIP, marketing efforts to encourage account holders to use the EBIP, and the proportion of non-institutional accounts that vote proxies after being provided access to an EBIP must be maintained for the purpose of reporting such records to the NYSE when requested.[104]

The Exchange states that the EBIP fee would be available to firms that already

[85] *Id.*

[86] *Id.* The Commission understands a wrap account to be a certain type of account that is managed by an outside investment adviser. *See* Proxy Concept Release, 75 FR at 42998 n.140.

[87] *See* Notice, 78 FR at 12387.

[88] *Id.* at 12387–88.

[89] *See* Proxy Concept Release, 75 FR at 42986 n.32. The notice and access model works in tandem with electronic delivery—although an issuer electing to send a notice in lieu of a full proxy package would be required to send a paper copy of that notice, it may send that notice electronically to a shareholder who has provided an affirmative consent to electronic delivery. *Id.*

[90] *Id.* at 42996.

[91] *See* Notice, 78 FR at 12389. As of the date of the Proxy Concept Release, Broadridge charged issuers that elected the notice and access method of proxy delivery a fee ranging from $0.05 to $0.25 per account for positions in excess of 6,000, in addition to the other fees permitted to be charged under NYSE Rule 451. *See* Proxy Concept Release, 75 FR at 42996–97.

[92] *See* Notice, 78 FR at 12389. The Exchange has proposed to exclude from its proposed notice and access fee schedule the $1,500 minimum fee that Broadridge currently charges issuers that are held by 10,000 accounts or less and elect notice and access. The Exchange states that, in its view, such a minimal charge could be unfairly high on a small issuer billed by several intermediaries. *Id.*

[93] *See* proposed Rule 451.90(5).

[94] *Id.*

[95] *Id.*

[96] *See* Notice, 78 FR at 12391; *see also* Proxy Concept Release, 75 FR at 43003.

[97] *See* Notice, 78 FR at 12391.

[98] *See* proposed Rule 451.90(7). As a one-time fee, NYSE member organizations could bill an issuer only once for each account covered by the rule. *Id.* Billing for the fee would be separately indicated on the issuer's invoice and would await the next proxy or consent solicitation by the issuer that follows the triggering of the fee by an eligible account's electronic delivery election. *Id.*

[99] *See* Notice, 78 FR at 12393.

[100] *See* proposed Rule 451.90(7).

[101] *Id.*

[102] *Id.*

[103] *Id.*

[104] *Id.*

have EBIP facilities, as even a firm that already has an EBIP can be incented to engage in marketing efforts to persuade its account holders to utilize the EBIP.[105] Further, the Exchange states that the fee would be triggered when a new account elects e-delivery immediately (and has access to an EBIP), except for accounts subject to notice and access or householding.[106] However, the Exchange represents that a firm making the EBIP available to only a limited segment of its account holders could not earn the EBIP fee from an e-delivery election by an account not within the segment having access to the EBIP.[107]

The Exchange represents that a study of the impact of the program would be conducted after three years.[108]

F. Fee for Providing Beneficial Ownership Information

As noted by the Exchange, since 1986 NYSE rules have provided for fees which issuers must pay to brokers and their intermediaries for obtaining a list of the non-objecting beneficial owners holding the issuer's stock.[109] Such a list is commonly referred to as a NOBO list, and the fees are charged per name in the NOBO list.[110] Currently, Rule 451.92 sets forth a $0.065 fee per NOBO name provided to the requesting issuer, but where the NOBO list is not furnished directly to the issuer by the member organization, and is instead furnished through an agent of the member organization, the current rule does not specify a fee—rather, it says only that the issuer will be expected to pay the reasonable expenses of the agent in providing such information.[111] The Exchange states that it understands that Broadridge, acting as such an agent, charges a $100 minimum fee per requested NOBO list, as well as a tiered per-name fee of: $0.10 per name for the first 10,000 names; $0.05 per name from 10,001 to 100,000 names, and $0.04 per each name above 100,000.[112] The Exchange has proposed to adopt and codify Broadridge's minimum and tiered per-name fees into its rules, and to delete its existing language that allows payment of the ''reasonable expenses of the agent.'' [113]

The Exchange also notes that it has been customary for brokers, through their intermediary, to require that issuers desiring a NOBO list take (and pay for) a list of all shareholders who are NOBOs, even in circumstances where an issuer would consider it more cost-effective to limit its communication to NOBOs having more than a certain number of shares, or to those that have not yet voted on a solicitation.[114] The Exchange has proposed to depart from this practice, so that when an issuer requests beneficial ownership information as of a date which is the record date for an annual or special meeting or a solicitation of written shareholder consent, the issuer may ask to eliminate names holding more or less than a specified number of shares, or names of shareholders that have already voted, and the issuer may not be charged a fee for the NOBO names so eliminated.[115] For all other requested lists, however, the issuer would be required to take and pay for complete lists.[116]

IV. Comment Letters and the Exchange's Response

As noted above, the Commission received 28 comment letters concerning the Exchange's proposal.[117] Twelve commenters expressed general support for the proposed rule change,[118] and other commenters supported certain aspects of the proposed rule change. Generally, five commenters believed that the proposal would improve transparency of the proxy fee structure;[119] five believed that the proposal eliminates the ''cliff'' pricing schedule, in favor of a more rational tiered system;[120] one believed that the Exchange has taken a fair and reasonable approach to charges for managed accounts;[121] one stated that the elimination of fees for fractional share positions would eliminate exposure that issuers face from unanticipated increases in the number of street name accounts on a yearly basis;[122] eleven believed that the proposed success fee for enhancements to EBIPs would reduce costs and/or lead to higher retail voting rates;[123] one believed that providing additional incentives for integration of a customer's documents in EBIPs would provide a benefit to investors;[124] and six supported the stratification of NOBO lists.[125]

Other commenters raised concerns regarding the proposal. Generally, ten commenters expressed concern about the lack of an independent third-party review of actual costs in the proxy distribution process;[126] five expressed concern with the lack of a thorough cost/benefit analysis of the proposed rule change;[127] four believed that the processing and intermediary unit fees do not allocate fees equitably between large and small issuers;[128] seven questioned the fairness of the proposed fee schedule;[129] four believed that the structure and level of the proposed proxy fees place a burden on competition;[130] seven expressed concern about the incentive structure for developing EBIPs;[131] two raised concerns regarding the five share limit for fees for processing shares held through managed accounts;[132] three believed the stratified NOBO lists should be made available outside of a record date;[133] and two expressed concern about the impact of the proposal on mutual funds in particular.[134] Finally, one commenter recommended an effective date for the proposed rules.[135] These issues, and the Exchange's response, are discussed below.

A. Independent Third-Party Review of Proxy Costs

Two commenters that expressed general support for the proposal commented on the issue of whether an

[105] *See* Notice, 78 FR at 12392.

[106] *Id.*

[107] *Id.*

[108] *Id.*

[109] *Id.* at 12390; *see also* Rule 451.92.

[110] *See* Notice, 78 FR at 12390.

[111] *See* Rule 451.92.

[112] *See* Notice, 78 FR at 12390.

[113] *See* proposed Rule 451.92; *see also* Notice, 78 FR at 12391.

[114] *See* Notice, 78 FR at 12390–91.

[115] *See* proposed Rule 451.92.

[116] *Id.; see also* Notice, 78 FR at 12391.

[117] *See* note 4, *supra.*

[118] *See* Steering Committee Letter, SCSGP Letter, iStar Letter, SCC Letter, Perficient Letter, Gartner Letter, CCMC Letter, Broadridge Letter, Darling Letter, ABC Letter, SIFMA Letter, Zumbox Letter.

[119] *See* Steering Committee Letter, SCSGP Letter, SCC Letter, Broadridge Letter, NIRI Letter.

[120] *See* SCSGP Letter, ABC Letter, Broadridge Letter, BNY Mellon, SCC Letter.

[121] *See* SCSGP Letter.

[122] *See* Broadridge Letter.

[123] *See* Steering Committee Letter, SCSGP Letter, iStar Letter, SCC Letter, Perficient Letter, CCMC Letter, Broadridge Letter, Darling Letter, ABC Letter, SIFMA Letter, NIRI Letter.

[124] *See* Zumbox Letter.

[125] *See* ABC Letter, Broadridge Letter, NIRI Letter, SCC Letter; ICI Letter; SCSGP Letter.

[126] *See* STA Letter, STA Letter II, SSA Letter, Schafer Letter, Lovatt Letter, SCC Letter, IBC Letter, NIRI Letter, ICI Letter, BNY Letter; *see also* AST Letter. In addition, one commenter questioned whether the fee structure used by Broadridge should be subject to an independent audit. *See* CtW Letter.

[127] *See* STA Letter, STA Letter II, SSA Letter, Schafer Letter, Lovatt Letter, IBC Letter.

[128] *See* STA Letter II, Schafer Letter, Lovatt Letter, IBC Letter.

[129] *See* STA Letter II, Schafer Letter, Lovatt Letter, IBC Letter, BNY Letter, ICI Letter, CtW Letter.

[130] *See* SSA Letter, IBC Letter, Schafer Letter, Lovatt Letter.

[131] *See* Harrington Letter, ICC Letter, Sharegate Letter, CG Letter, CII Letter, Zumbox Letter, CtW Letter.

[132] *See* Broadridge Letter, SIFMA Letter.

[133] *See* SCSGP Letter, Broadridge Letter, BNY Letter.

[134] *See* ICI Letter, AST Letter.

[135] *See* SIFMA Letter.

independent third-party audit of proxy costs should be conducted.[136] One of them noted that while ''an independent third party may be desirable, the PFAC made a determination that 'utility rate making' which could be independently audited would not work for proxy fees.'' [137] The other stated that while an independent review ''is often attractive in the abstract, the regulatory landscape is laden with examples where the costs of such reviews outweigh the benefits.'' [138]

However, several commenters stated that the NYSE should engage an independent third party to evaluate the structure and level of fees being paid for proxy distribution, as recommended by the NYSE Proxy Working Group in 2006.[139] Two commenters argued that an independent third-party audit is the best way to evaluate whether the fees are reimbursed fairly, equitably and objectively, thereby eliminating the vested interests of those involved directly and indirectly in the process.[140] Two other commenters stated that the Commission should disapprove the proposed rule change until the audit has been commissioned and completed,[141] while two other commenters suggested that the Commission approve the proposal, but require an independent third-party review as part of an ongoing process.[142] One commenter believed that without a third-party audit, any proposal to adjust fees is akin to ''putting the cart before the horse,'' and it is highly likely that many issuers would continue to question the accuracy of proxy fees.[143] Another commenter highlighted that there was no independent verification of the data on the Securities Industry and Financial Markets Association (''SIFMA'') study related to the costs of proxy processing.[144] One commenter stated that a comprehensive assessment of the fee proposal's net impact on proxy distribution costs for all issuers, including mutual funds, would require additional analysis from the Exchange and Broadridge (or an independent source).[145]

In response, the Exchange stated that the PFAC determined that an independent review of proxy costs was unnecessary.[146] The Exchange noted that the PFAC itself was an independent body and that it reviewed audited financial information on Broadridge, segment information provided by Broadridge on its Web site, and several independent analyst reports on Broadridge that gave the PFAC comfort that the existing fees were not providing Broadridge with excessive margin on its activities.[147] The Exchange also noted that ''the PFAC made significant efforts to 'drill down' on the work performed by Broadridge and by the firms, and to satisfy itself that the fees were appropriately correlated with the work done.'' [148] Further, the Exchange stated that the NYSE proxy fees have been revised a number of times over the years without an independent review of proxy costs.[149] The Exchange recognized, as noted by several commenters,[150] that the Proxy Working Group formed in 2006 recommended that the NYSE engage an independent third party to analyze the reasonableness of the proxy fees and to commission an audit of Broadridge's costs and revenues for proxy mailing, but the Exchange pointed out that that Proxy Working Group did not renew its call for such independent analysis at the time an addendum to the group's report was published in 2007.[151] The Exchange stated that there is no requirement that an independent third-party review be conducted, and that such a review was conducted only in the context of significant rule changes developed in the late 1990s.[152] The Exchange also stated that ''given the availability of audited financials on Broadridge and the SIFMA survey of costs at representative brokerage firms undertaken at the NYSE's request, arguably the proposed fee changes have been based on information comparable to that used in the independent studies conducted in the late 1990s.'' [153] The Exchange asserted that ''throughout the history of the NYSE proxy fees, negotiation among the members of a committee of issuers and brokers, supplemented by the comment process which accompanies a rule filing with the SEC, has been an effective method for reaching a workable consensus on what constitutes 'reasonable reimbursement.' '' [154]

B. Cost/Benefit Analysis of the Proxy Fee Proposals

Several commenters stated that the NYSE failed to undertake an analysis of the costs and benefits of the fee proposal, using the same degree of rigor applicable to SEC rule changes.[155] Two commenters stated that until an objective and comprehensive cost-benefit analysis can be developed, the SEC should disapprove this rule filing.[156]

The Exchange responded by noting that no such cost-benefit analysis is required by the relevant statute or SEC rules.[157] However, the Exchange contended that ''a cost-benefit analysis is exactly what took place, since the essence of the PFAC process was a negotiation among parties with often divergent interests seeking an outcome which to each was a balance of the costs and benefits involved.'' [158] The Exchange cited the PFAC's conclusions regarding Managed Accounts as an example of the PFAC's cost-benefit analysis.[159]

C. Equitable Allocation of Processing and Intermediary Unit Fees Between Large and Small Issuers

Several commenters stated that the proposed processing and intermediary fees do not allocate fees equitably between large and small issuers.[160] Moreover, two commenters believe that these fees should not be charged at the same level for beneficial owners who are not receiving an actual proxy package.[161] These commenters also stated that such fees fall disproportionately on smaller issuers, especially those with less than 300,000 beneficial owner positions.[162] They further stated that it was not fair for smaller issuers to be subject to more than a 20% increase in their proxy fees, while an issuer with 1,000,000 beneficial owners would have a decrease in processing and intermediary unit fees.[163] These commenters concluded that even ''after accounting for economies of scale, the processing and intermediary unit fees proposed by the NYSE are not equitably allocated between large and small issuers, in light of the fact that there is no substantive justification for why smaller issuers

[136] *See* Broadridge Letter, ABC Letter.

[137] *See* Broadridge Letter.

[138] *See* ABC Letter.

[139] *See* STA Letter, STA Letter II, SSA Letter, Schafer Letter, Lovatt Letter, NIRI Letter, SCC Letter, IBC Letter, ICI Letter; *see also* AST Letter.

[140] *See* NIRI Letter, ICI Letter.

[141] *See* STA Letter, STA Letter II, IBC Letter.

[142] *See* SCC Letter, SCSGP Letter.

[143] *See* NIRI Letter.

[144] *See* BNY Letter.

[145] *See* AST Letter.

[146] *See* NYSE Letter.

[147] *Id.*

[148] *Id.*

[149] *Id.*

[150] *See* STA II Letter, NIRI Letter, SCC Letter, IBC Letter, BNY Letter.

[151] *See* NYSE Letter.

[152] *Id.*

[153] *Id.*

[154] *Id.*

[155] *See* STA Letter, STA Letter II, Schafer Letter, Lovatt Letter, IBC Letter.

[156] *See* STA Letter, STA Letter II, IBC Letter.

[157] *See* NYSE Letter.

[158] *Id.*

[159] *Id.*

[160] *See* STA Letter II, IBC Letter, Schafer Letter, Lovatt Letter.

[161] *See* STA Letter II, IBC Letter.

[162] *Id.*

[163] *Id.*

with less than 300,000 beneficial owners should be bearing such a significantly large burden under the proposed fee schedule.'' [164]

D. Fairness of the Fee Proposals

Five commenters believed that the proposal would improve transparency of the proxy fee structure so that it is clearer to issuers what services they are paying for and that the fees are consistent with the type and amount of work involved.[165] In addition, five commenters believed that the proposal is an improvement that helps eliminate the ''cliff'' pricing schedule that distinguishes between large and small issuers, in favor of a more rational tiered system that is fairer to issuers.[166]

However, several commenters raised concerns about the possibility that issuers may be paying more than would constitute ''reasonable'' reimbursement for actual costs.[167] As a result, several commenters stated that the fee proposal favors the interests of broker-dealers and discriminates against issuers.[168] One commenter noted that a 2011 survey of transfer agent pricing compared to the NYSE proxy fee schedule concluded that market-based proxy fees for registered shareholders were more than 40% less than the proxy fees being charged to provide the same services to beneficial owners.[169] This commenter also noted that the same study found that all transfer agents participating in the survey charged processing and suppression fees that were significantly less than the fees being charged by broker-dealers under the current NYSE proxy fee schedule.[170] This commenter concluded that the NYSE proxy fee schedule, as proposed, does not satisfy the requirements of Section 6(b)(5) of the Act because the proposed fees are ''not based on actual costs incurred and exceed similar charges under competitive pricing and through other broker-dealer utilities operating on an at-cost basis.'' [171]

Below is a more detailed summary of the comments regarding the significant fees on the NYSE schedule, as proposed in the rule filing.

1. Preference Management Fee

Several commenters raised concerns regarding the change of the paper and postage elimination fee into a preference management fee, which is assessed for all accounts for which a mailing is suppressed.[172] These commenters also highlighted the lack of any detailed analysis about the cost of the work involved for the fee.[173] In addition, these commenters questioned the appropriateness of the ''evergreen'' nature of the fees, which currently are charged not only in the year in which the electronic delivery is elected but also in each year thereafter.[174] One commenter stated that if ''Broadridge is paid to 'keep track' of a shareholder preference regarding householding or electronic delivery, it should not also be permitted to charge a basic processing fee and an intermediary unit fee for accounts that are suppressed.'' [175] Another commenter stated that the preference management fee has ''no apparent connection to the amount of effort involved in recording the beneficial owner's preference on the broker's system nor that involved in the suppression of mailing.'' [176]

In its response letter, the Exchange referred to its discussion in its rule filing of the appropriateness of charging the preference management fee every year, and noted that, following the SEC's review of the proxy fees put in place in 1997, the every-year approach was maintained by an independent proxy review committee.[177]

2. Separately Managed and Wrap Accounts

One commenter believed that the Exchange has taken a fair and reasonable approach with respect to charges for managed accounts by cutting the preference management fee in half for positions in managed accounts and eliminating the fee altogether for any position under five shares.[178] Several other commenters, however, expressed concern regarding the proxy fees for separately managed accounts, including wrap accounts.[179] One commenter highlighted the lack of detailed analysis for why the managed account fees should remain an issuer expense.[180] This commenter stated that the ''documentation and data processing for both wrap fee accounts and separately managed accounts are standardized within a broker-dealer's accounting platform.'' [181] Two commenters questioned the validity of the amount of work involved in managing a separately managed account.[182] One commenter expressed uncertainty ''on the value or need to track accounts where there is no need or expectation to deliver proxy materials, since these accounts are voted by a single manager.'' [183] Another commenter expressed concern that ''private, nonpublic information is being sent to the broker-dealer's service provider when the broker-dealer should be the entity eliminating the accounts for proxy distribution. With today's technology, the broker-dealer would easily be able to extract only the accounts which truly should receive proxy materials.'' [184] Yet another commenter concluded that a fee prohibition should apply when a beneficial owner has instructed an investment adviser to receive issuer proxy materials and vote his or her proxies in lieu of the beneficial owner.[185]

In its response letter, the Exchange referred to the discussion in its rule filing of the issue of the appropriateness of applying the preference management fee to managed accounts.[186]

3. Nominee and Coordination Fees

One commenter stated that the proposed increase in the nominee coordination fee would be 10%, from $20 to $22 for each nominee holding at least one share of an issuer's stock.[187] This commenter noted that the fee appeared to be significantly higher than similar fees charged by the Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC''), two broker-dealer utilities that work on an at-cost basis.[188] This commenter stated that without independent confirmation of the actual cost of sending electronic search requests to nominees and processing the responses, ''it is hard to justify a 10% increase in this fee, especially when the cost of sending electronic requests, messages, and beneficial owner account information is significantly less expensive when conducted through the DTC and/or NSCC processing systems.'' [189]

[164] *Id.*

[165] *See* Steering Committee Letter, SCSGP Letter, SCC Letter, Broadridge Letter, NIRI Letter.

[166] *See* SCSGP Letter, ABC Letter, Broadridge Letter, BNY Mellon, SCC Letter.

[167] *See* STA Letter, STA Letter II, Schafer Letter, Lovatt Letter, IBC Letter, BNY Letter, ICI Letter.

[168] *See* STA Letter II, IBC Letter, Schafer Letter, Lovatt Letter.

[169] *See* STA Letter II.

[170] *Id.*

[171] *Id.*

[172] *See* STA Letter II, BNY Letter, ICI Letter.

[173] *Id.*

[174] *Id.*

[175] *See* STA Letter II.

[176] *See* BNY Letter.

[177] *See* NYSE Letter.

[178] *See* SCSGP Letter.

[179] *See* STA Letter II, SSA Letter, BNY Letter.

[180] *See* STA Letter II.

[181] *See* STA Letter II.

[182] *See* STA Letter II, BNY Letter.

[183] *See* BNY Letter.

[184] *See* SSA Letter.

[185] *See* STA Letter II.

[186] *See* NYSE Letter.

[187] *See* STA Letter II.

[188] *Id.*

[189] *Id.*

4. Notice and Access Fees

Two commenters stated that there needs to be an independent review of the actual costs incurred for notice and access fees to reflect a rate of reasonable reimbursement.[190] Another commenter stated that the proposal does not provide information sufficient to analyze in detail the cost basis for notice and access fees.[191] One commenter noted that the proposal would generally codify Broadridge's current notice and access fees.[192] This commenter stated that ''even if the Commission determines that it is appropriate for such a fee to be charged, it is not reasonable for the fee to apply to all accounts, even those which receive the full set of proxy materials.'' [193] One commenter reiterated that the ''lack of an independent audit hampers the ability of issuers to know what costs are incurred, and why these fees are needed to handle a much lower level of mail processing, *i.e.,* the mailing of one piece instead of a four-piece proxy package.'' [194]

In its response letter, the Exchange referred to the discussion in its rule filing of notice and access fees, but emphasized that the PFAC members were satisfied with the overall level of notice and access costs.[195] The Exchange represented that the only question was whether Broadridge's approach with respect to those costs made sense and, after reviewing alternative approaches, the PFAC came to a consensus that Broadridge's approach was best.[196]

5. NOBO List Fees

One commenter stated that the current NOBO list fees far exceed what should be considered reasonable and deserves further scrutiny.[197] This commenter noted that the proposed fee schedule codifies the fee that Broadridge historically has charged for issuers to obtain a list of NOBOs.[198] This commenter also raised concerns about (1) The level of fees charged given the relatively uncomplicated nature of the work involved and (2) the possibility that issuers may be paying twice for the same information.[199]

E. Burden on Competition

Several commenters stated that the structure and level of the proposed NYSE proxy fees place a burden on competition.[200] Four commenters stated that the NYSE rule filing does not adequately address the contract arrangements between broker-dealers and Broadridge.[201] In particular, two commenters expressed the view that the rule filing does not adequately address the rebates being provided by Broadridge to broker-dealers as a result of excess profits generated by the NYSE proxy fee schedule, which they believe create a burden on competition that is not necessary or appropriate.[202] One commenter stated, however, that although there is one dominant intermediary on the street side, brokers remain free to contract with any entity that can fulfill proxy process services to their clients or can provide those services themselves.'' [203] One commenter stated that there should be an examination of the rebates being provided to ensure that they do not come at the issuer's expense.[204] This commenter also noted that this issue was previously raised by the NYSE Proxy Working Group in 2006 and the Proxy Concept Release, and expressed the view that the PFAC did not address this issue in any meaningful way.[205] Two commenters believed that the SEC should ''disapprove the rule filing on the basis that the excess profits being generated are creating a burden on competition, as the dominant service provider in this area is able to use these excess profits to subsidize its ability to successfully encroach on the proxy servicing business of transfer agents.'' [206]

In its response letter, the Exchange referred to the discussion in its rule filing and the PFAC report of the payments made by Broadridge to certain of its broker-dealer clients pursuant to their contractual arrangements, but reiterated that ''the existence of these cost recovery payments is a completely rational result of the fact that the fees are 'one size' but have to 'fit all', so that the firms with large volumes can be served at a lower unit cost, while those with smaller volumes have a higher unit cost to Broadridge.'' [207] The Exchange suggested that, contrary to one commenter's contention that the rebates reflect excess profits,[208] the rebates ''may also be viewed as a demonstration that market forces are directing the 'excess' to firms that can be serviced by Broadridge for a lower unit price but have themselves greater internal street name proxy administration costs, given their larger number of accounts.'' [209]

F. Enhanced Broker Internet Platforms

Ten commenters expressed general support for the proposed EBIP incentive fee, stating that issuers should expect new cost savings from the success fee for enhancements to EBIPs.[210] Two of these commenters believed that the proposed success fee would increase the availability of EBIPs and potentially spur innovation in such platforms.[211] An additional commenter that supported the proposed fee believed that it would result in higher retail voting rates.[212]

Six commenters believed that the incentive structure for developing EBIPs could be further improved.[213] Three commenters expressed concern that the incentives provided to brokers for developing EBIPs do not extend to other more open platforms, such as ProxyDemocracy.org, Sharegate.com or other Web sites.[214] Two commenters stated that these and other entities should be afforded at least the same incentives as brokers.[215] These commenters also argued that EBIPs offer no real benefit to retail shareowners over e-delivery.[216] Several commenters expressed concern that brokers who set up EBIPs could be incentivized to create default voting mechanisms that essentially replicate uninformed ''broker voting.'' [217] Two commenters stated that the fee proposal only addresses the needs of issuers, brokers and Broadridge, without considering the needs of shareowners.[218] One commenter noted that the ''99 cent fee level was not based on any survey of brokers, or on the anticipated impact of any particular level of success fee on individual broker decisions to

[190] *See* STA Letter II, ICI Letter.
[191] *See* AST Letter.
[192] *See* ICI Letter.
[193] *Id.*
[194] *See* STA Letter II.
[195] *See* NYSE Letter.
[196] *Id.*
[197] *See* ICI Letter.
[198] *Id.*
[199] *Id.*

[200] *See* STA Letter II, IBC Letter, SSA Letter, Lovatt Letter, Schafer Letter.
[201] *See* STA Letter II, IBC Letter, SSA Letter, BNY Letter.
[202] *See* STA Letter II, IBC Letter.
[203] *See* ABC Letter.
[204] *See* STA Letter II.
[205] *Id.*
[206] *See* STA Letter II, IBC Letter.
[207] *See* NYSE Letter.

[208] *See* STA II Letter.
[209] *See* NYSE Letter.
[210] *See* Perficient Letter, SIFMA Letter, ABC Letter, CCMC Letter, Broadridge Letter, Darling Letter, SCSGP Letter, iStar Letter, Steering Committee Letter, SCC Letter.
[211] *See* SIFMA Letter, ABC Letter.
[212] *See* NIRI Letter.
[213] *See* Harrington Letter, ICC Letter, Sharegate Letter, CG Letter, CII Letter, Zumbox Letter.
[214] *See* ICC Letter, Harrington Letter, CG Letter.
[215] *See* ICC Letter, CG Letter.
[216] *Id.*
[217] *See* ICC Letter, Harrington Letter, CG Letter.
[218] *See* ICC Letter, CG Letter.

implement EBIPs.'' [219] This commenter also suggested that the rules for brokers' eligibility to receive a success fee be drafted to provide bright lines so that brokers are not compelled to conduct extensive analysis to determine how the fee might apply in their individual circumstances.[220] One commenter requested that the Commission include investment advisors and beneficial owners in developing the incentive plan for EBIPs.[221] Two commenters recommended that the proposed rule change be delayed and amended to encourage an open form of client directed voting. [222] One commenter recommended an approach to EBIPs that provides revenue streams to companies who prove they can provide a superior service in demand by the investor customer.[223] One commenter requested that the Commission consider the following four issues associated with EBIPs prior to finalizing the proposed rule change: (1) whether Voting Information Forms (''VIFs''), including those distributed to beneficial shareowners by EBIPs, should be subject to the same degree of Commission oversight as proxy ballots; (2) whether EBIPs that distribute VIFs to beneficial shareowners should be prohibited from presenting voting options in a manner that unfairly tilts votes in favor of management recommendations; (3) whether VIFs, including those distributed to beneficial shareowners by EBIPs, should be prohibited from describing proxy ballot items using wording, headings, or fonts that differ from those used on the related proxy card; and (4) whether VIFs, including those distributed to beneficial shareowners by EBIPs, should not be permitted to tally unmarked shareowner votes in favor of management's recommendations when the underlying voting items are otherwise ineligible for discretionary voting by brokers.[224] Another commenter believed that providing additional incentives for integration of a customer's documents within one investor mailbox would provide a stronger benefit to investors.[225] One commenter questioned whether the proposal improperly encourages the adoption of internet voting procedures such as EBIP that, according to the commenter, shift control of the voting process to brokers and corporate managers.[226] This commenter also questioned whether the proposal would ensure proper Commission oversight of the preparation of clear, informative and balanced VIFs, and whether it would enable the creation of open rather than proprietary client directed voting systems.[227]

With respect to EBIPs, the Exchange stated in its response letter that it proposed the EBIP incentive fee because the PFAC and issuer representatives supported the fee.[228] The Exchange expressed that it has no opinion on whether EBIPs can or would be used to facilitate client directed voting, as this was not an issue discussed with the PFAC or with the Exchange in its follow up discussion regarding the EBIP fee proposal.[229] The Exchange noted one commenter's concerns regarding the voting instruction form used to obtain voting instructions from street name shareholders,[230] but stated that these concerns similarly were not discussed with the PFAC or in follow up EBIP discussions.[231]

G. Stratification of NOBO Lists Outside of a Record Date

Six commenters supported the stratification of NOBO lists.[232] Three commenters believed that the proposal to provide stratified NOBO lists would reduce issuers' costs in communicating with shareholders.[233] Another commenter believed that stratified NOBO lists would enhance retail voter participation, as well as help issuers communicate with their shareholders at proxy time.[234]

However, four commenters believed that the stratified NOBO lists should be made available outside of a record date.[235] One commenter noted its disappointment that an issuer could not request a stratified NOBO list outside of a record date, ''especially at a time when issuers have a greater need to communicate more frequently with their shareholders, and especially their street name holders.'' [236] This commenter also stated that ''issuers find it more cost-effective to order a subset of the NOBO list, segmented by whether or not a beneficial owner already voted on a solicitation, or stratified by a minimum threshold of shares held.'' [237] Another commenter stated that the justification used by the NYSE for limiting stratification ''is the impact such a change would have on the proxy system, which appears to be the impact this would have on the vendor (Broadridge) that provides this information.'' [238] This commenter highlighted that any potential negative impact on the vendor is not sufficient justification to restrict potential benefits to issuers.[239] One commenter believed that if the proposal were expanded to include requests for stratified lists at any time of the year, there would be an imbalance between fees and the work involved.[240] This commenter recommended that the Commission and the NYSE monitor developments with respect to NOBO lists for the first year of the new fees and, at the end of the first year, the proposed rule should be adjusted, if necessary, in light of the actual use of the new stratified NOBO list option.[241]

The Exchange stated in its response letter that it believes that there is a rational basis to distinguish between record date lists and other lists, and that the Exchange is concerned about the unknown impact of the proposed NOBO list fee change on overall proxy fee revenues available to reimburse brokers for their costs.[242] The Exchange stated that issuer and broker experience with this change would inform whether future changes are desirable.[243]

H. Minimum Share Threshold for Managed Accounts

One commenter, who stated that it has been adversely affected by fees attributable to managed accounts that hold fractional shares of its own stock, expressed full support for the proposal.[244] In addition, one commenter stated that the removal of fees for fractional share positions would help eliminate exposure some issuers have to large, unanticipated increases in the number of street name accounts from one year to the next.[245] This commenter estimated that this amendment would save issuers approximately $3.6 million over a period of twelve months.[246]

[219] *See* SIFMA Letter.
[220] *Id.*
[221] *See* Harrington Letter.
[222] *See* ICC Letter, CG Letter.
[223] *See* Sharegate Letter.
[224] *See* CII Letter.
[225] *See* Zumbox Letter.
[226] *See* CtW Letter.
[227] *Id.*
[228] *See* NYSE Letter.
[229] *Id.*
[230] *See* CII Letter.
[231] *See* NYSE Letter.
[232] *See* ABC Letter, Broadridge Letter, NIRI Letter, SCC Letter, ICI Letter, SCSGP Letter.
[233] *See* ABC Letter, Broadridge Letter, NIRI Letter.
[234] *See* SCSGP Letter.
[235] *See* SCSGP Letter, STA Letter II, BNY Letter, NIRI Letter.
[236] *See* STA Letter II.
[237] *Id.*
[238] *See* BNY Letter.
[239] *Id.*
[240] *See* Broadridge Letter.
[241] *Id.*
[242] *See* NYSE Letter.
[243] *Id.*
[244] *See* Gartner Letter.
[245] *See* Broadridge Letter.
[246] *Id.*

However, three commenters raised concerns regarding the five-share limit for fees for processing shares held through managed accounts.[247] One commenter stated that the rules for reimbursement should be based on actual (or a reasoned estimate of) proxy processing costs rather than on arbitrarily fixed thresholds.[248] Another commenter stated that the proposal lacked a detailed analysis concerning the basis for selecting any particular threshold.[249] Two commenters stated that the work required to process proxy distribution to Managed Accounts is the same, regardless of the number of shares held,[250] and one commenter stated the proposed approach has the potential to create an imbalance between the fees and the amount of work involved.[251] Instead of drawing the line at five shares, one commenter believed that issuers should not be required to reimburse brokers for processing managed accounts that have less than one whole share.[252]

I. Impact on Mutual Funds

Two commenters stated that there should be further analysis of the impact the proposed rule change would have on proxy distribution fees paid by mutual funds and, in particular, the open-end funds that hold special meetings each year.[253] One of these commenters stated that the proposal could result in a significant fee increase in combined processing and intermediary unit fees for many mutual funds.[254] This commenter also stated that the ''net impact of the proposed changes will vary widely due to the complexity of a proposed fee structure that raises combined processing and intermediary costs for many funds (and especially funds conducting special meetings without the election of directors/trustees), while also reducing certain costs associated with 'managed accounts.' '' [255] This commenter noted that there was insufficient information to determine the cost basis and impact of the fee changes, including the extent to which related costs reductions could mitigate the impact of higher combined processing and intermediary unit fees.[256]

In its response letter, the Exchange criticized these two commenters as premising their comments on a misunderstanding of what constitutes a ''special meeting.'' [257] According to the Exchange, contrary to the suggestion in one commenter's letter,[258] a meeting that involves the election of directors, even if other non-routine items are included on the ballet, would not be a special meeting.[259] The Exchange believes that this misunderstanding may have impacted the proxy fee analysis performed by the other commenter.[260]

J. Effective Date of the Proposed Rules

One commenter recommended that the new rules become effective on January 1, 2014.[261] This commenter also urged the Commission to set an effective date for the commencement of the five-year EBIP program that is at least six to nine months following the date of adoption of the final rules implementing the EBIP program.[262] In its response letter, the Exchange stated its belief that a lengthy period before effectiveness of the proposed fee structure would be unnecessary.[263]

V. Proceedings to Determine Whether To Disapprove SR–NYSE–2013–07 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [264] to determine whether the proposed rule change should be disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

Pursuant to Section 19(b)(2)(B),[265] the Commission is providing notice of the grounds for disapproval under consideration. In particular, Section 6(b)(4) of the Act [266] requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.[267] In addition, Section 6(b)(5) of the Act [268] requires that the rules of an exchange be designed, among other things, 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. Section 6(b)(5) also prohibits the rules of an exchange from being designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Further, Section 6(b)(8) of the Act [269] prohibits any exchange rule from imposing any burden on competition that is not necessary or appropriate in furtherance of the Act.

As discussed above, the Exchange has proposed to amend its rules that provide a schedule of ''fair and reasonable'' rates of reimbursement by issuers to NYSE member organizations for expenses in connection with the processing of proxy materials and other issuer communications provided to investors holding securities in street name. According to the Exchange, over 80% of publicly held securities are in street name today, and NYSE member organizations have contracted with Broadridge, a third-party service provider, to handle almost all proxy processing in the U.S. The Exchange's proposal relies substantially on the recommendations of the PFAC, an advisory committee composed of representatives of issuers, broker-dealers and investors, which in turn relied substantially on information provided by Broadridge.

The PFAC's recommendations, according to the Exchange, were intended to serve several goals, including supporting the current proxy distribution system; encouraging and facilitating retail investor voting; improving the transparency of the fee structure; and ensuring that the fees are as fair as possible.[270] The Commission notes that aspects of the Exchange's

[247] *See* Broadridge Letter, SIFMA Letter, AST Letter.

[248] *See* SIFMA Letter.

[249] *See* AST Letter.

[250] *See* Broadridge Letter, SIFMA Letter.

[251] *See* Broadridge Letter.

[252] *Id.*

[253] *See* ICI Letter, AST Letter.

[254] *See* AST Letter.

[255] *Id.*

[256] *Id.*

[257] *See* NYSE Letter.

[258] *See* ICI Letter.

[259] *See* NYSE Letter.

[260] *Id., see also* AST Letter. With respect to that analysis, the Exchange asserts that it is not clear how many issuers were included, and that the experiences of particular issuers will differ. *See* NYSE Letter.

[261] *See* SIFMA Letter.

[262] *See* SIFMA Letter.

[263] *See* NYSE Letter.

[264] 15 U.S.C. 78s(b)(2)(B).

[265] *Id.*

[266] 15 U.S.C. 78f(b)(4).

[267] Relatedly, SEC Rules 14b–1 and 14b–2 condition broker-dealer's and bank's obligation to forward issuer proxy materials to beneficial owners on the issuer's assurance that it will reimburse the broker-dealer's or bank's reasonable expenses, both direct and indirect, incurred in connection with performing that obligation. *See* 17 CFR 240.14b–1 and 17 CFR 240.14b–2.

[268] 15 U.S.C. 78f(b)(5).

[269] 15 U.S.C. 78f(b)(8).

[270] *See* Notice, 78 FR at 12384.

proposal appear designed to make incremental improvements to the existing fee structure, including for example, creating more finely-tuned, tiered fee structures for certain fees in an attempt to take into account economies of scale; eliminating proxy distribution fees for fractional shares; providing stratified NOBO lists; rationalizing the treatment of wrap accounts as compared to managed accounts; and encouraging EBIP use. Nevertheless, as is further discussed below, the Commission believes that significant questions exist as to whether the Exchange has provided adequate justification for material aspects of its proposal such that the Commission can make a determination that the proposal is consistent with the Act.

The Exchange estimates that issuers spend approximately $200 million in aggregate on fees for proxy distribution to street name shareholders each year. While the PFAC, according to the Exchange, ''did what it could'' to review the costs associated with proxy processing, such as reviewing publicly available financial information on Broadridge, which does not separately report information about its proxy distribution business as a standalone segment, as well as reviewing analyst reports that discuss Broadridge's business segments, it does not appear that the PFAC looked beyond this general information to obtain a clearer understanding of the costs of proxy processing or of how they may have changed in recent years, for example, in light of notice and access.[271]

The Exchange's rules currently set forth rates of reimbursement for processing and distribution expenses that are broken down into several specific categories. As discussed above, these include a ''basic processing fee'' of $0.40 for each account through which the issuer's securities are beneficially owned, as well as a ''supplemental fee'' of either $0.05 or $0.10 per beneficial owner account for issuers with securities held in 200,000 or more accounts, or less than 200,000 accounts, respectively. In addition, for accounts where paper mailings have been eliminated (*e.g.,* where there has been consent to electronic delivery or the suppression of duplicative mailings to the same address), there is an ongoing ''incentive fee'' of either $0.25 or $0.50 per beneficial owner account for issuers with securities held in 200,000 or more accounts, or less than 200,000 accounts, respectively. Although Broadridge currently charges issuers that elect to use the ''notice and access'' method for distributing proxy materials a separate per account fee, ''notice and access'' fees are not presently addressed by the Exchange's rules.

With respect to the basic processing fee, the PFAC recommended and the Exchange proposed a rate structure consisting of five tiers, ranging from $0.32 to $0.50 per beneficial owner account depending on the number of issuer accounts. Similarly, with respect to the supplemental fee, the PFAC recommended and the Exchange proposed a rate structure consisting of five tiers, ranging from $0.07 to $0.14 per beneficial owner account depending on the number of issuer accounts. The net effect of these changes is estimated to increase overall proxy distribution fees by approximately $9–10 million. According to the Exchange, the PFAC recommended these changes, among other things, to better reflect the economies of scale in processing issuers with a larger number of accounts, and to reflect the impact of inflation since the fees were last adjusted. The Exchange, however, has not clearly explained why the particular five tiers were chosen, or provided the rationale for the specific differential charges for those tiers. It also offers no evidence that either the Exchange or the PFAC conducted a meaningful review of the economies of scale present in the proxy processing business, or the overall costs associated therewith.

With respect to the incentive fee, the PFAC recommended and the Exchange proposed to change its name to the ''preference management'' fee, and set the rate at $0.32 per beneficial owner account, without regard to the number of issuer accounts. For managed accounts, however, the preference management fee would be $0.16 per account, except that no fee would be charged for accounts with five or fewer shares. The net effect of these changes is estimated to decrease overall proxy distribution fees by approximately $15 million.

In contrast to the approach taken with the basic processing and supplemental fees, the Exchange explains that, for the preference management fee, the PFAC recommended eliminating a rate structure tiered by the number of issuer accounts in order to avoid ''unnecessary complexity,'' and because it believed the processing involved in managing preferences was less susceptible to economies of scale by issuer size ''because it is, of necessity, an account by account task.''[272] The Exchange does not clearly explain, however, why the tiered approach—which in fact is based on the number of accounts—is inappropriate for the preference management fee but appropriate for the basic processing and supplemental fees.

The Exchange acknowledges the concerns raised in the Commission's Proxy Concept Release about the continuing nature of the incentive fees after the election to discontinue paper mailings is made. According to the Exchange, however, the PFAC was persuaded, following discussions with broker-dealers and Broadridge, that there was significant processing work involved in keeping track of a shareholder's election, even though few shareholders actually change their elections. The Exchange explains that ''data processing has to look at each position relative to each meeting or distribution event to determine how the 'switch' should be set,'' and that ''[d]ata management requires ongoing technology support, services and maintenance, and is a significant part of the total cost of eliminating paper proxy materials.''[273]

With respect to managed accounts, where voting typically is delegated to a broker or investment manager, the Exchange takes the position that the maintenance of the beneficial owner's preference is as necessary as it is with non-managed accounts. In the Exchange's view, however, managed accounts are different because, unlike non-managed accounts, the elimination of paper mailings benefits the broker as well as the issuer. Although the Exchange does not clearly explain how the broker benefits with managed accounts in this context, it represents that ''[i]t is this unique attribute of the managed account that suggested to the Committee that it would be most fair, and most reasonable, for issuers and brokers to share the cost of the admittedly real processing work that is done to track and maintain the voting and distribution elections made by the beneficial owners of the stock positions in the managed account.''[274] No preference management fee would be charged for managed accounts with five or fewer shares, though, because ''the benefit to issuers of holdings of five or fewer shares in a managed account is limited.''[275] The Exchange, however, does not provide a clear explanation as to why the five share threshold was chosen. Further, the Exchange offers no rationale for treating managed accounts differently only with respect to preference management fees, and not

[271] *Id.*

[272] *Id.* at 12388.

[273] *Id.* at 12386.

[274] *Id.* at 12387.

[275] *Id.* at 12388.

the basic processing, supplemental, and other fees.

For notice and access fees, which for the first time would be addressed in the Exchange's rules, the Exchange essentially has proposed to codify Broadridge's existing fee schedule.[276] Although Broadridge occupies a dominant position as a proxy processor for broker-dealers, the Exchange expresses the view that Broadridge's notice and access fees are the ''product of market forces.'' [277] The Exchange acknowledges that some issuers represented on the PFAC expressed concern that notice and access fees were charged for all issuer accounts, even in cases where an issuer uses notice and access only for a subset of its accounts (*e.g.,* smaller accounts), or where mailings already have been suppressed (*e.g.,* by consent to electronic delivery). Because, in the Exchange's view, there was ''general satisfaction with the overall level of notice and access fees, Broadridge was asked to suggest an alternative approach that would net Broadridge a similar amount of fee revenue from notice and access but avoid the application of a fee to all accounts.'' [278] In response, Broadridge suggested applying its higher preference management fee to accounts that are actually subject to notice and access. According to the Exchange, however, an impact analysis showed that this alternative would disproportionately impact certain issuers, so a majority of the PFAC recommended that Broadridge's current rate schedule for notice and access fees largely be incorporated into the Exchange's proposal.

The Exchange also addressed the concern, reflected in the Proxy Concept Release, that Broadridge rebates a portion of the fees paid by issuers for proxy processing to its larger broker-dealer clients. According to the Exchange, the PFAC ''was persuaded that the existence of these payments is not any indicator of unfairness or impropriety.'' [279] The Exchange recognizes that broker-dealers and Broadridge engage in individual arm's length negotiations over the price to be paid to Broadridge for proxy processing services, and that the largest firms may negotiate a better rate. The Exchange does not clearly explain, however, why these savings are not passed on to issuers (*i.e.,* why the maximum rates permitted under the Exchange's rules continue to be charged to issuers in these cases, despite the lower costs incurred).

The Commission also notes that commenters expressed varying views on the Exchange's proposed EBIP fee, including suggestions about the type of EBIP service that should qualify for the fee.[280] Generally, many commenters expressed support for the proposed EBIP fee,[281] while several others believed that the incentive structure for developing EBIPs could be further improved.[282]

As discussed above, while a number of commenters expressed general support for the proposed rule change, others expressed a variety of concerns with the proposed fees.[283] Several commenters fundamentally questioned the basis for the proposed fee schedule, and suggested that the Exchange should first engage an independent third-party to audit the actual costs incurred in proxy distribution activities. In their view, only then could the Exchange meaningfully develop fees that are fair and reasonable, equitably allocated, and otherwise consistent with statutory standards.[284] A number of commenters believed that the proposed fees were too high, and thus favored the interests of broker-dealers over issuers.[285] Particular concerns were expressed with respect to the rationale for and fairness of the proposed preference management fees, treatment of managed accounts, and notice and access fees. Commenters also questioned whether the proposed proxy fee structure placed a burden on competition, particularly in light of the contractual arrangements between broker-dealers and Broadridge and the related rebate payments to certain broker-dealers.[286]

In articulating the statutory basis for its proposal, the Exchange expresses the belief that its proposed fee schedule is consistent with Section 6(b)(4) of the Act, which among other things requires the ''equitable'' allocation of ''reasonable'' fees, because the PFAC—which included representatives of broker-dealers and issuers—''agreed unanimously that the proposed fees were reasonable in light of the information the Committee had gathered about the costs incurred by brokers.'' [287] Noting that broker-dealers have processes and costs beyond those covered by their agreements with Broadridge, the Exchange represents that the PFAC ''became comfortable with the reasonableness of the overall fees when considered in light of the overall costs involved.'' [288] As discussed above, however, neither the Exchange nor the PFAC have articulated a sufficient analysis of Broadridge's costs of providing proxy processing services, including with respect to issuers of various sizes, or of the costs incurred by broker-dealers that may go beyond the services provided by Broadridge. Accordingly, the Commission lacks a sufficient basis upon which to assess whether the incremental changes proposed to the existing fee structure (*e.g.,* the addition of tiered fee structures to address economies of scale, the elimination of tiered fee structures to promote simplification, the reduction of charges for managed accounts in some contexts but not others, the incorporation of the Broadridge rate schedule for notice and access fees into the Exchange's rulebook) are consistent with the statutory standard, including whether the overall level and structure of the fees reflected in the Exchange's rule are ''reasonable'' or an ''equitable'' allocation of fees. Further, the payment of rebates by Broadridge to certain larger broker-dealers of a portion of the fees paid by issuers—which the Exchange simply characterizes as the product of negotiation—raises further questions about whether the proposal meets the statutory standard.

With respect to Section 6(b)(5) of the Act, which among other things prohibits rules designed to permit unfair discrimination, the Exchange takes the position that the statutory standard is met because ''all issuers are subject to the same fee schedule'' and the PFAC ''thoroughly examined the impact of the current fee structure on different categories of issuers.'' [289] In this regard, the Exchange notes the efforts made in the proposal to mitigate the impact of fees for managed accounts, and to implement a tiered pricing structure for certain fees to better reflect economies of scale. As a preliminary matter, the Commission notes that the fact that all issuers would be subject to the same fee schedule does not address concerns of

[276] The Commission notes that the Exchange has taken the same approach with respect to NOBO list fees, essentially proposing to codify Broadridge's existing NOBO list fee schedule.

[277] *See* Notice, 78 FR at 12389.

[278] *Id.*

[279] *Id.* at 12393.

[280] *See* Section IV.F., *supra.*

[281] *See* Perficient Letter, SIFMA Letter, ABC Letter, CCMC Letter, Broadridge Letter, Darling Letter, SCSGP Letter, iStar Letter, Steering Committee Letter, SCC Letter.

[282] *See* Harrington Letter, ICC Letter, Sharegate Letter, CG Letter, CII Letter.

[283] *See, e.g.,* STA Letter II, Shafer Letter, Lovatt Letter, IBC Letter, BNY Letter, ICI Letter.

[284] *See* SSA Letter, STA Letter, STA Letter II, Shafer Letter, Lovatt Letter, NIRI Letter, SCC Letter, IBC Letter, ICI Letter.

[285] *See* STA Letter II, IBC Letter, Shafer Letter, Lovatt Letter.

[286] *See* STA Letter II, IBC Letter, SSA Letter, BNY Letter.

[287] *See* Notice, 78 FR at 12394.

[288] *Id.*

[289] *Id.* at 12395.

unfair discrimination where, as here, issuers would be treated differently within that schedule. Although the Commission acknowledges the efforts by the Exchange to incrementally improve the fairness of its fee schedule, as discussed above, significant questions remain as to the rigor of the Exchange's analysis absent more meaningful cost data and a detailed explanation for the specific levels and structure of the fees proposed, and in light of the extensive reliance by the PFAC and the Exchange on information and recommendations provided by the dominant proxy processor. Finally, the Exchange states that its proposal would not impose any unnecessary burden on competition within the meaning of Section 6(b)(8) of the Act, because care was taken ''not to create either any barriers to brokers being able to make their own distributions without an intermediary or any impediments to other intermediaries being able to enter the market.'' [290] However, as discussed above, and as noted by commenters, there are concerns that the proposed fee structure, which would appear to continue to facilitate the payment of rebates by the dominant proxy processor to larger broker-dealers pursuant to long-term contracts, may result in an unnecessary or inappropriate burden on competition.

The Commission therefore believes that questions remain as to whether the Exchange's proposal is consistent with the requirements of: (1) Section 6(b)(4) of the Act, including whether it provides for the equitable allocation of reasonable fees among its members, issuers and other persons using its facilities; (2) Section 6(b)(5) of the Act, including whether it is not designed to permit unfair discrimination, or would promote just and equitable principles of trade, or protect investors and the public interest; and (3) Section 6(b)(8) of the Act, including whether it would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

VI. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any others they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is inconsistent with Sections 6(b)(4), 6(b)(5), 6(b)(8) or any other provision of the Act, or the rules and regulation thereunder. The Commission also invites comment on the views expressed by the Exchange in its letter responding to the comments on its proposal. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[291]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be disapproved by June 20, 2013. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by July 5, 2013.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2013–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2013–07. 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. 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– NYSE–2013–07 and should be submitted on or before June 20, 2013. Rebuttal comments should be submitted by July 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[292]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–12725 Filed 5–29–13; 8:45 am]

BILLING CODE 8011–01–P

[290] *Id.*

[291] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[292] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69638; File No. SR–CBOE–2013–055]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Its Rules Regarding the Trading of XSP Options

May 24, 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 May 14, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding the trading of XSP options. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules regarding the trading of XSP options (which have 1/10 the value of the S&P 500 Index options). First, the Exchange proposes to amend Interpretation and Policy .14 to Rule 24.9 to state that the Exchange may list options on XSP whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled''). The Exchange currently offers the SPXPM options class, which are P.M.-settled options on the S&P 500 Index. SPXPM trades on a pilot basis, which pilot period is to end 12 months from the approval date (which was February 8, 2013). The Exchange proposes to add P.M.-settled XSP options to the SPXPM pilot program (and to insert the date February 8, 2014 in place of ''[insert date 12 months from approval]'' to designate the end date of the pilot period). CBOE proposes to abide by the same reporting requirements for the trading of P.M.-settled XSP under this pilot program as the Exchange does for the trading of SPXPM.[3] Upon approval of this proposed rule change, the Exchange would change the trading symbol for A.M.-settled XSP options, allow any series with open interest in A.M.-settled XSP options to expire, delete any A.M.-settled XSP series without open interest and, going forward, only list XSP series that are P.M.-settled. The purpose of this proposed change is to permit the trading of XSP options on a P.M.-settled basis, as the Exchange believes that this will encourage greater trading in XSP options.

The Exchange proposes to make a number of corresponding amendments to its rules in conjunction with the proposed trading of XSP options on a P.M.-settled basis.

First, Interpretation and Policy .04 to Rule 24.6 states that on the last trading day, transactions in expiring PM-settled S&P 500 Index options (SPXPM) may be effected on the Exchange between the hours of 8:30 a.m. and 3:00 p.m. (as opposed to the normal trading hours for non-expiring SPXPM options, which are from 8:30 a.m. until 3:15 p.m.).[4] The Exchange proposes to add P.M.-settled XSP options to this statement.[5]

XSP options (which are based on the S&P 500 Index) are typically priced in the market based on corresponding futures values. The primary listing markets for the component securities that comprise the S&P 500 close trading in those securities at 3:00 p.m. The primary listing exchanges for the component securities disseminate closing prices of the component securities, which are used to calculate the exercise settlement value of the S&P 500. CBOE believes that, under normal trading circumstances, the primary listing markets have sufficient bandwidth to prevent any data queuing that would cause any trades that are executed prior to the closing time from being reported after 3:00 p.m. Despite the fact that the exercise settlement value will be fixed at or soon after 3:00 p.m., if the Exchange did not close trading in expiring P.M.-settled XSP options at 3:00 p.m. on their last trading day, trading in expiring P.M.-settled XSP options would continue for an additional fifteen minutes until 3:15 p.m. and would not be priced on corresponding futures values, but rather the known cash value. At the same time, the prices of non-expiring P.M.-settled XSP options series would continue to move and be priced in response to changes in corresponding futures prices.

A potential pricing divergence could occur between 3:00 p.m. and 3:15 p.m. on the final trading day in expiring P.M.-settled XSP options (e.g., switch from pricing off of futures to cash). Further, the switch from pricing off of futures to cash can be a difficult and risky switchover for liquidity providers. As a result, without closing expiring contracts at 3:00 p.m., it is foreseeable that Market-Makers would react by widening spreads in order to compensate for the additional risk. Therefore, the Exchange believes that, in order to mitigate potential investor confusion and the potential for increased costs to investors, it is appropriate to cease trading in the expiring P.M.-settled contracts of SPXPM and XSP with P.M.-settlement, as they are based on the S&P 500 Index, at 3:00 p.m. The Exchange does not believe that the proposed change will impact volatility on the underlying cash market at the close on third Fridays. Further, the Exchange already closes trading on the last trading day for transactions in expiring SPXPM options at 3:00 p.m.

The Exchange also proposes to amend Interpretation and Policy .03 to Rule 6.42 regarding minimum increments for bids and offers for XSP options. Currently, the minimum increments for bids and offers for XSP options are $0.01 for all option series quoted below $3 (including LEAPS) and $0.05 for all option series $3 and above (including LEAPS).[6] However, the current minimum increments for bids and offers for SPY options, which is an exchange-traded fund that tracks the performance of 1/10th the value of the S&P 500 Index, is $0.01 regardless of whether option series is quoted above, at, or below $3.[7] Because both XSP options and SPY options prices are based, in some manner, on 1/10th the price of the S&P 500 Index, the Exchange believes that it is important that these products have the same minimum increments for consistency and competitive reasons. As such, the Exchange proposes to state that for so long as SPY options participate in the Penny Pilot program, the minimum increments for XSP are $0.01 for all options series (including LEAPS).[8]

[3] For the details of these reporting requirements, *see* Securities Exchange Act Release Nos. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) *and* 68457 (December 18, 2012), 77 FR 76135 (December 26, 2012) (SR–CBOE–2012–120).

[4] All times referenced are Chicago time.

[5] The proposed Interpretation and Policy .04 to Rule 24.6 would read: On their last trading day, transactions in expiring P.M.-settled S&P 500 Index options (SPXPM) and P.M.-settled XSP options may be effected on the Exchange between the hours of 8:30 a.m. (Chicago time) and 3:00 p.m. (Chicago time).

[6] This minimum increment pricing regime for XSP options was established in 2007, and was established in the same amounts that were concurrently approved for physically settled options on the SPDR S&P 500 ETF (''SPY''). *See* Securities Exchange Act Release No. 56565 (September 27, 2007), 72 FR 56403 (October 3, 2007) (approval of SR–CBOE–2007–98, which extended and expanded the Penny Pilot Program).

[7] The minimum increment for all option series in the SPY option class became $0.01 in 2010. *See* Securities Exchange Act Release No. 61478 (February 3, 2010), 75 FR 6762 (February 10, 2010) (SR–CBOE–2010–009).

[8] The proposed Interpretation and Policy .03 to Rule 6.42 would read: For so long as SPDR options (SPY) and options on Diamonds (DIA) participate in the Penny Pilot Program, the minimum

Continued

The Exchange also proposes to amend its rules regarding strike price intervals for XSP options. Currently, Interpretation and Policy .11 to Rule 24.9 states that [n]otwithstanding Interpretation and Policy .01(a) to Rule 24.9, the interval between strike prices of series of XSP options will be $1 or greater, subject to a number of somewhat-involved conditions.[9] The Exchange proposes to simplify these rules and provide that the interval between strike prices of series of XSP options will be $1 or greater where the strike price is $300 or less and $5.00 or greater where the strike price is greater than $300. Along with simplifying XSP's strike price interval rules, allowing strike price intervals of as little as $1 up to a strike price of $300 will allow for greater granularity and more trading options in XSP, which is currently trading at around $163. Only allowing strike price intervals of $5 or greater beginning at $200 would limit the ability of the Exchange to offer more relevant and tailored trading options for investors. Options on the S&P 500 Index (SPX or SPXPM) have strike price intervals of $5 or greater, but XSP options, which as a Mini S&P 500 Index has 1/10th the value of the S&P 500 Index options, should therefore be permitted smaller strike price intervals than the S&P 500 Index options.

Aside from the proposed changes outlined above, trading in P.M.-settled XSP options will operate in the same manner as trading currently operates in A.M.-settled XSP options. The trading symbol will remain XSP, and XSP will continue to trade on the Exchange's Hybrid Trading System (''Hybrid''). XSP options will still have a $100 multiplier and European-style exercise. Expiration processing would occur on Saturday following the third Friday of the month. No position or exercise limits will be in effect for XSP options, and the same position reporting and margin requirements will apply.

Finally, in preparing this proposed rule change, the Exchange noticed an erroneous reference in Interpretation and Policy .10 to Rule 5.5, which states that the intervals between strike prices of XSP series shall be determined in accordance with Interpretation and Policy .14 to Rule 24.9. However, it is Interpretation and Policy .11, not Interpretation and Policy .14, to Rule 24.9 that discusses strike price intervals for XSP options. As such, the Exchange proposes to correct this reference in Interpretation and Policy .10 to Rule 5.5 to refer to Interpretation and Policy .11 to Rule 24.9.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the introduction of P.M. settlement for XSP options in the manner proposed does not raise any prohibitive regulatory concerns. Further, the Exchange believes that the proposal will not adversely impact fair and orderly markets on third (''expiration'') Fridays for the underlying stocks comprising the S&P 500 index. The Exchange believes that CBOE has experienced no meaningful regulatory concerns, nor an adverse impact on fair and orderly markets, in connection with the CBOE pilot program that permits trading of SPXPM (which is P.M.-settled), nor in connection with the previous pilot program that permitted trading of SPXPM on C2 Options Exchange, Incorporated. Additionally, the proposed rule change would provide TPHs and investors with an opportunity to trade XSP options with a P.M. settlement feature on CBOE subject to transparent exchange-based rules. Investors would also benefit from the opportunity to trade in association with this product on third (''expiration'') Fridays thereby removing impediments to a free and open market consistent with the Act.

The proposal to end trading at 3:00 p.m. on the last trading day for transactions in expiring P.M.-settled XSP options will prevent continued trading on a product after the exercise settlement value has been fixed. This eliminates potential confusion and thereby protects investors and the public interest. The Exchange believes that the proposal to match up the rules regarding minimum increments for bids and offers for XSP options with those for SPY options perfects the mechanism for a free and open market and a national market system because both products are based, in some manner, on 1/10th the price of the S&P 500 Index, and therefore it makes sense to have the same minimum increments of bids and offers for both. The correcting of the reference in Interpretation and Policy .10 to Rule 5.5 will eliminate any potential confusion, thereby removing impediments to and perfecting the mechanism for a free and open market and a national market system, and, in general, protecting investors and the public interest. The Exchange believes that the proposal to amend the strike price intervals for XSP options rule perfects the mechanism for a free and open market system. Along with simplifying the strike price interval rules for XSP options, allowing strike price intervals of as little as $1 up to a strike price of $300 will allow for greater granularity and will hopefully generate more trading in XSP options, which is currently trading at around $163. Only allowing strike price intervals of $5 or greater beginning at $200 would limit the ability of the Exchange to offer more relevant trading options for investors. Options on the S&P 500 Index (SPX or SPXPM) have strike price intervals of $5 or greater, but XSP, which as a Mini S&P 500 Index has 1/10th the value of the S&P 500 Index options, should therefore be permitted smaller strike price intervals than the S&P 500 Index options.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed changes will impose any unnecessary or inappropriate burden on intramarket competition because they will apply

increments for Mini-SPX Index Options (XSP) are $0.01 for all options series (including LEAPS) and for options on the Dow Jones Industrial Average (DJX) are $0.01 for all option series quoted below $3 (including LEAPS), and $0.05 for all option series $3 and above (including LEAPS).

[9] Those conditions are:

(a) The Exchange may list series at $1 or greater strike price intervals on Mini-SPX options with strike prices that are no more than 20% away from one-tenth of the current value of the Standard & Poor's 500 Stock Index (''S&P 500 Index''). FOR EXAMPLE, if the current value of the S&P 500 Index is at 1,200.00, the Exchange may only list new series at $1 strike price intervals in Mini-SPX options that are between $96 and $144 strike prices.

(b) The Exchange may list series at $3 or greater strike price intervals on Mini-SPX options with strike prices that are no more than 25% away from one-tenth of the current value of the S&P 500 Index.

(c) The Exchange may list series at $5 or greater strike price intervals on Mini-SPX options that are more than 25% away from one-tenth of the current value of the S&P 500 Index.

(d) The Exchange shall not list LEAPS or reduced-value LEAPS on Mini-SPX options at intervals less than $5.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

equally to all CBOE market participants and P.M.-settled XSP options will be available to all CBOE market participants. The Exchange believes that the proposed changes to minimum pricing (*e.g.,* matched between SPY and XSP options) will enhance competition and is necessary for consistency. To the extent that the advent of XSP options trading in a P.M.-settled manner, or any other proposed rule changes described herein, may make CBOE a more attractive marketplace to market participants at other exchanges, such market participants may elect to become CBOE market participants.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–055 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–055. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–055, and should be submitted on or before June 20, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–12847 Filed 5–29–13; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and one extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA)

Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than July 29, 2013. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Application for Child's Insurance Benefits—20 CFR 404.350–404.368, 404.603, & 416.350—0960–0010.* Title II of the Social Security Act (Act) provides for the payment of monthly benefits to children of an insured retired, disabled, or deceased worker. Section 202(d) of the Act discloses the conditions and requirements the applicant must meet when filing an application. SSA uses the information on Form SSA–4–BK to determine entitlement for children of living and deceased workers to monthly Social Security payments. Respondents are guardians completing the form on behalf of the children of living or deceased workers, or the children of living or deceased workers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Life Claims (paper)	18,500	1	12	3,700
Life Claims (MCS)	351,500	1	12	70,300
Life Claims—Signature Proxy	351,500	1	11	64,442
Death Claims (paper)	6,000	1	12	1,200
Death Claims (MCS)	114,000	1	12	22,800
Death Claims—Signature Proxy	114,000	1	11	20,900
Totals	955,500			183,342

2. *Application Status—20 CFR 401.45—0960–0763.* Application Status provides users with the capability to check the status of their pending Social Security claims, either via the Internet or the National 800 Number Automated Telephone Service. Users need their Social Security number and a confirmation number to access this information. The Application Status shows users when SSA received the application, if we requested additional documents (e.g., military discharge papers, W–2s, birth records, etc.), and provides the address for the office processing the application. Once SSA makes a decision on a claim, we post a copy of the decision notice online for the user to view. There are some exceptions to posting a copy online, such as disability denial notices (even if filed electronically) or claims users did not file via the Internet, as we may not have those notices available for online review. Respondents are current Social Security claimants who wish to check the status of their claims either through the Internet or the National 800 Number.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Automated Telephone Services	498,477	1	2	16,616
Internet Services	6,032,016	1	1	100,534
Totals	6,530,493			117,150

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 1, 2013. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov*.

1. *Agency/Employer Government Pension Offset Questionnaire—20 CFR 404.408(a)—0960–0470.* When an individual is concurrently receiving Social Security spousal or surviving spousal benefits and a government pension, the individual may have the amount of Social Security benefits reduced by the government pension amount. This is the Government Pension Offset (GPO). SSA uses Form SSA–L4163 to collect accurate pension information from the Federal or State government agency paying the pension for purposes of applying the pension offset provision. SSA uses this form only when (1) the claimant does not have the information; and (2) the pension-paying agency has not cooperated with the claimant. Respondents are State government agencies that have information SSA needs to determine if the GPO applies and the amount of offset.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden perresponse (minutes)	Estimated total annual burden (hours)
SSA–L4163	1,000	1	3	50

2. *Function Report—Child: Birth to 1st Birthday (SSA–3375), Age 1 to 3rd Birthday (SSA–3376), Age 3 to 6th Birthday (SSA–3377), Age 6 to 12th Birthday, (SSA–3378), and Age 12 to 18th Birthday (SSA–3379)—20 CFR 416.912—0960–0542.* SSA uses Forms SSA–3375–BK through SSA–3379–BK in the disability determination process to request information from a child's parent or guardian for children applying for Supplemental Security Income (SSI). The five different versions of the form contain questions about the child's day-to-day functioning appropriate to a particular age group; thus, respondents use only one version of the form for each child.

The adjudicative team (disability examiners and medical or psychological consultants) of State disability determination services offices collect the information on the appropriate version of this form (in conjunction with medical and other evidence) to form a complete picture of the children's ability to function and their impairment-related limitations. The adjudicative team uses the completed profile to determine whether each child's impairment(s) results in marked and severe functional limitations and whether each child is disabled. The respondents are parents and guardians of child applicants for SSI.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Function Report—Child: Birth to 1st Birthday (SSA–3375), Age 1 to 3rd Birthday (SSA–3376), Age 3 to 6th Birthday (SSA–3377), Age 6 to 12th Birthday, (SSA–3378), and Age 12 to 18th Birthday (SSA–3379)	660,000	1	20	220,000

3. *Technical Updates to Applicability of the Supplemental Security Income (SSI) Reduced Benefit Rate for Individuals Residing in Medical Treatment Facilities—20 CFR 416.708(k)—0960–0758.* Section 1611(e)(1)(A) of the Act states that residents of public institutions are ineligible for SSI. However, sections 1611(e)(1)(B) and (G) list certain exceptions to this provision making it necessary for SSA to collect information about SSI recipients who enter or leave a medical treatment facility or other public or private institution. SSA's regulation 20 CFR 416.708(k) establishes the reporting guidelines implementing this legislative requirement. SSA collects the information to determine eligibility for SSI and the payment amount. The respondents are SSI recipients who enter or leave an institution.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Technical Updates Statement	34,200	1	7	3,990

Dated: May 24, 2013.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2013–12808 Filed 5–29–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Delegation of Authority No. 355]

Delegation to the Assistant Secretary for Political-Military Affairs of Authority To Concur With Secretary of Defense Assignments of Certain Civilian Personnel

By virtue of the authority vested in the Secretary of State, including Section 1081 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81) (the NDAA) and Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), and delegated to me by the Secretary of State in Delegation of Authority 245–1, dated February 13, 2009, I hereby delegate to the Assistant Secretary of Political-Military Affairs, to the extent authorized by law, the authority to concur with a Secretary of Defense assignment of civilian personnel to the Ministry of Defense (or security agency serving a similar defense function) of a foreign country that is made pursuant to subsection 1081(a) of the NDAA.

Notwithstanding this delegation of authority, any function or authority delegated by this Delegation may be exercised by the Secretary, the Deputy Secretary, the Deputy Secretary for Management and Resources, or the Under Secretary for Arms Control and International Security. Any reference in this delegation of authority to any statute or delegation of authority shall be deemed to be a reference to such statute or delegation of authority as amended from time to time.

This delegation of authority shall be published in the **Federal Register.**

Dated: April 10, 2013.

William J. Burns,

Deputy Secretary of State.

[FR Doc. 2013–12868 Filed 5–29–13; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 8339]

Meeting of the United States-Peru Environmental Affairs Council and Environmental Cooperation Commission

ACTION: Notice of meetings of the United States-Peru Environmental Affairs Council and Environmental Cooperation Commission, and request for comments.

SUMMARY: The Department of State and the Office of the United States Trade Representative (USTR) are providing notice that the United States and Peru intend to hold the fourth meeting of the Environmental Affairs Council (the ''Council'') and the third meeting of the Environmental Cooperation Commission (the ''Commission'') on June 4th and June 5th, 2013. The public sessions of the Council and Commission meetings will be held on June 5th, starting at 2:00 p.m. at the George C. Marshall Conference Center, U.S. Department of State, 21st Street between Virginia Avenue and C Street NW., Washington, DC. The purpose of the meetings is to review implementation of: Chapter 18 (Environment) of the United States-Peru Trade Promotion Agreement (PTPA) and the United States-Peru Environmental Cooperation Agreement (ECA). The Department of State and USTR invite interested organizations and members of the public to attend the public session and comment on any items that should be included on the meeting agendas. If you would like to attend the public session, please notify Tiffany Prather and Sarah Stewart at the email addresses listed below under the heading **ADDRESSES**. Please include your full name and any organization or group you represent. In preparing comments, submitters are encouraged to refer to:

- Chapter 18 of the PTPA,
- The Final Environmental Review of the PTPA,
- The ECA, and
- The 2011–2014 Work Program.

These documents are available at: *http://www.ustr.gov/trade-agreements/free-trade-agreements/peru-tpa* and

http://www.state.gov/e/oes/eqt/trade/peru/index.htm.

DATES: The public sessions of the Council and Commission meetings will be held on June 5, 2013, beginning at 2:00 p.m., at the George C. Marshall Conference Center, U.S. Department of State, 21st Street between Virginia Avenue and C Street NW., Washington, DC. Comments and suggestions are requested in writing no later than May 31, 2013.

ADDRESSES: Written comments and suggestions should be submitted to both:

(1) Tiffany Prather, Office of Environmental Quality and Transboundary Issues, U.S. Department of State, by electronic mail at *PratherTA@state.gov* with the subject line ''U.S.-Peru EAC/ECC Meeting''; and

(2) Sarah Stewart, Office of Environment and Natural Resources, Office of the United States Trade Representative, by electronic mail at *Sarah_Stewart@ustr.eop.gov* with the subject line ''U.S.-Peru EAC/ECC Meeting''. If you have access to the Internet, you can view and comment on this notice by going to: *http://www.regulations.gov/#!home* and searching on docket number: DOS-.

FOR FURTHER INFORMATION CONTACT: Tiffany Prather, Telephone (202) 647–4548 or Sarah Stewart, Telephone (202) 395–3858.

SUPPLEMENTARY INFORMATION: The PTPA entered into force on February 1, 2009. Article 18.6 of the PTPA establishes an Environmental Affairs Council to discuss the implementation of, and progress under, Chapter 18. The ECA entered into force on August 23, 2009. Article III of the ECA establishes an Environmental Cooperation Commission and makes the Commission responsible for developing a Work Program. Chapter 18 of the PTPA and Article VI of the ECA require that meetings of the Council and Commission respectively include a public session, unless the Parties otherwise agree.

Dated: May 23, 2013.

John Thompson,

Acting Director, Office of Environmental Quality and Transboundary Issues, Department of State.

[FR Doc. 2013–12870 Filed 5–29–13; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Action on Proposed Highway in Georgia the Northwest I–75/I–575 Corridor, Cobb and Cherokee Counties, Georgia (Atlanta Metropolitan Area)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitations on Claims for Judicial Review of Action by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The action relates to the Northwest (I–75/I–575) Corridor (from Akers Mill Road to Hickory Grove Road on Interstate 75 (I–75) and from I–75 to Sixes Road on I–575) located in Cobb and Cherokee Counties, Georgia. The approximate length of is approximately 29.7 miles. Those actions grant licenses, permits and approvals for the project.

DATES: By this notice, the FHWA is advising the public of the final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency action on the highway project will be barred unless the claim is filed on or before October 21, 2013. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney Barry, Division Administrator, Georgia Division, Federal Highway Administration, 61 Forsyth Street, Suite 17T100; Atlanta, Georgia 30303; 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday, 404–562–3630; email: *Rodney.Barry@dot.gov.* For Georgia Department of Transportation (GDOT): Mr. Keith Golden Commissioner, Georgia Department of Transportation, 600 West Peachtree Street, 22th Floor, Atlanta, Georgia 30308, 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday, Telephone: (404) 631–1005, Email: *KGolden@dot.ga.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final action actions by issuing licenses, permits and approvals for the following highway project in the State of Georgia: The Northwest Corridor (from Akers Mill Road to Hickory Grove Road on Interstate 75 (I–75) and from I–75 to Sixes Road on I–575) located in metropolitan Atlanta, Georgia. The Selected Alternative will extend the two-I–75 managed lanes that currently terminate Akers Mill Road south of the I–75/I–285 interchange. Two managed lanes would extend north to the I–75/I–575 interchange. A single managed lane would continue north on I–75 from the I–75/I–575 interchange to just beyond Hickory Grove Road. A single managed lane would continue north on I–575 from the I–75/I–575 interchange to the Sixes Road interchange. The facility will include improvements of approximately 16.8 miles on I–75, 11.3 miles on I–575 and 1.6 miles on I–285. The facility will be tolled by electronic toll lane (ETL). The purpose of the project is listed below:

- Improve the transportation effectiveness of I–75 and I–575 to accommodate additional travel and to contribute to the improved performance of the regional highway system;
- Provide additional transportation choices or options that increase the capacity of I–75 and I–575;
- Improve the quality of life by improving mobility and minimizing effects to both natural resources and the built environment;
- Improve transportation equity by providing an equitable distribution of benefits and impacts to all populations; and
- Provide cost-effective and affordable transportation improvements.

The actions by the Federal agencies and the laws under which such actions were taken are described in the Final Environmental Impact Statement (FEIS) and the reevaluation of the FEIS for the Northwest Corridor Project, approved on October 12, 2011 and March 18, 2013 respectively, in FHWA Record of Decision (ROD) issued on May 23, 2013, and in other documents in the FHWA project records. The FEIS, reevaluated FEIS, ROD and other project records are available by contacting FHWA or the Georgia Department of Transportation at the addresses listed above. The FHWA FEIS, reevaluated FEIS and ROD can be reviewed and downloaded from the project Web site at *http://www.nwcproject.com* or at the following local libraries: Central Library, Atlanta-Fulton County Library System, One Margaret Mitchell Square, Atlanta, GA 30303; Central Library, Cobb County Public Library System, 266 Roswell Street, Marietta, GA 30060; Library Headquarters, RT Jones Memorial Library, Sequoyah Regional Library System, 11 Brown Industrial Parkway, Canton, GA 30114.

A final decision regarding Section 404 permit for this project has not yet been made. This notice, therefore, does not apply to the Section 404 permitting process for this project. This notice

applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109] and [23 U.S.C. 128];

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)];

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303];

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544]; Migratory Bird Treaty Act [16 U.S.C. 703–712];

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f];

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209];

7. *Water Resources:* Safe Drinking Water Act [42 U.S.C. 300f et seq.]; Flood Disaster Protection Act [42 U.S.C. 4001–12].

Executive Orders: E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 13112, Invasive Species; E.O. 11514, Protection and Enhancement of Environmental Quality. Nothing in this notice creates a cause of action under these Executive Orders.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1), as amended by Moving Ahead for Progress in the 21st Century Act (MAP–21), Pub. L. 112–141, § 1308, 126 Stat. 405 (2012).

Issued on: May 23, 2013.

William C. Farr,

Assistant Division Administrator, Atlanta, Georgia.

[FR Doc. 2013–12830 Filed 5–29–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0060; Notice 2]

Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition.

SUMMARY: The Ford Motor Company (Ford), has determined that certain model year 2010 Ford Taurus passenger cars and certain model year 2010 Lincoln MKT multi-purpose vehicles do not fully comply with the requirements of paragraph S6.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials.* Ford filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports,* dated November 12, 2009.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Ford has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of Ford's petition was published, with a 30 day public comment period, on June 4, 2010, in the **Federal Register** (75 FR 31839). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2010–0060.''

Contact Information: For further information on this decision, contact Mr. Luis Figueroa, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5298, facsimile (202) 366–7002.

Vehicles Involved: Affected are approximately 15,663 model year 2010 Ford Taurus passenger car models, manufactured from June 1, 2009, through October 5, 2009, at Ford's Chicago Assembly Plant, and approximately 3,565 model year 2010 Lincoln MKT multi-purpose vehicle models, manufactured from June 29, 2009, through October 8, 2009, at Ford's Oakville Assembly Plant, a total of approximately 19,228 vehicles are not in compliance with paragraph 6.2 of FMVSS No. 205 relating to windshield marking.[1]

Summary of Ford's Petition: Ford describes the noncompliance as the improper location of the ''AS1'' glazing marking. The standard requires that the ''AS1'' glazing marking be located in close proximity to the official designated trademark area (lower portion) of the windshield. However, Ford said that the ''AS1'' symbol is marked in the upper portion of the windshield; on both sides of the affected windshields and that the windshields conform to all other FMVSS No. 205 requirements.

Ford states the basis for why they believe this noncompliance is inconsequential to motor vehicle safety as:

(1) This condition does not present a risk to motor vehicle safety because the windshield fully meets the performance and physical requirements of FMVSS [No.] 205.

(2) Repair service will be unaffected because the selection of replacement windshields is typically done utilizing a distributor, a catalog, or NAGS [National Auto Glass Specification] number.

(3) Furthermore, repairers will be able to determine the appropriate glazing because the upper portions of the windshield are properly labeled with the ''AS1,'' designation, the glazing is clearly marked as ''Laminated,'' and all other markings required by FMVSS [No.] 205 are properly labeled.

(4) No other Ford vehicles are affected by this condition and Ford is not aware of any field or owner complaints related to this condition.

Additionally, Ford stated that Zeledyne discovered the noncompliance during its trademark content project study in which its laboratory personnel noticed that the ''AS1'' symbol was missing from the designated trademark location on the lower corner of the windshields for the affected vehicles.

Ford also has informed NHTSA that it has corrected the problem that caused these errors so that they will not be repeated in future production.

Supported by the above stated reasons, Ford believes that the described FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

[1] Ford additionally notes that the nonconforming windshields installed in the subject vehicles were manufactured by Zeledyne, Inc. (Zeledyne), at their facility located at 7200 W. Centennial Boulevard, Nashville, TN 37209.

Background Requirement: Section § 6.2 of FMVSS No. 205 specifically states:

§ 6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1–1996, in letters and numerals of the same size, the symbol ''DOT'' and a manufacturer's code mark that NHTSA assigns to the manufacturer. . . .

NHTSA Decision: FMVSS No. 205 specifies labeling and performance requirements for automotive glazing. Section § 6 of FMVSS No. 205 requires glazing material manufacturers to certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies. A prime glazing material manufacturer certifies its glazing by adding the marks required in Section 7 of ANSI Z26.1 (1996), the symbol ''DOT'' and a manufacturer's code mark assigned by the NHTSA's Office of Vehicle Safety Compliance. One of the labeling requirements in Section 7 of ANSI Z26.1 (1996) is to mark automotive glazing with the item of glazing number, e.g., ''AS–1''. In addition, Section 7 of ANSI Z26.1 (1996) states that the item of glazing number is to be placed in close proximity to other required markings.

According to the petition, the nature of the noncompliance is the improper placement of the glazing number on the windshield. NHTSA believes that the placement of the glazing number, separated from the other required labeling, is inconsequential to vehicle safety. The glazing number has been placed at a different location from the rest of the required markings, but all information required in FMVSS No. 205 appears on the windshield. The windshields meet all performance requirements and Ford has taken the steps to correct the problem.

In consideration of the foregoing, NHTSA has determined that Ford has met its burden of persuasion and that the subject FMVSS No. 205 glazing noncompliance is inconsequential to motor vehicle safety. Accordingly, Ford's petition is hereby granted, and Ford is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.

Issued on: May 21, 2013.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2013–12823 Filed 5–29–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 23, 2013.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before July 1, 2013 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–1450.

Type of Review: Extension without change of a currently approved collection.

Title: FI–59–91 (Final), Debt Instructions with Originals Issue Discount; Contingent Payments; Anti-Abuse Rule.

Abstract: The regulations provide definitions, general rules, and reporting requirements for debt instruments that provide for contingent payments. The regulations also provide definitions, general rules, and recordkeeping requirements for integrated debt instruments.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 89,000.

OMB Number: 1545–2232.

Type of Review: Extension without change of a currently approved collection.

Title: TD 9580 (REG–131491–10) Health Insurance Premium Tax Credit.

Abstract: This document contains final regulations relating to the health insurance premium assistance credit enacted by the Patient Protection and Affordable Care Act (PPACA). The regulations provide guidance to individuals who claim the premium assistance credit and exchanges that make qualified health plans available to individuals and employers.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 250,000.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2013–12772 Filed 5–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Final Rule—Management of Federal Agency Disbursements

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Bureau of the Fiscal Service, Fiscal Service, 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 a continuing information collection. By this notice, the Fiscal Service solicits comments concerning the ''Final Rule—Management of Federal Agency Disbursements.''

DATES: Written comments should be received on or before July 29, 2013.

ADDRESSES: Direct all written comments to Fiscal Service, Records and Information Management Branch, Room 135, 3700 East West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Walt Henderson, Director, EFT Strategy Division, Room 303, Liberty Center Building, 401 14th Street SW., Washington, DC, 20227, (202) 874–6624.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995,

(44 U.S.C. 3506(c)(2)(A)), the Bureau of Fiscal Service solicits comments on the collection of information described below:

Title: Final Rule—Management of Federal Agency Disbursements.

OMB Number: 1510–0066.

Form Number: None.

Abstract: Recipients of Federal disbursements must furnish to FMS their bank account number and the name and routing number of their financial institution to receive payment electronically.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Businesses, or other for-profit institutions, Individuals or households, Not-for-profit Institutions.

Estimated Number of Respondents: 1,300.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 3.25.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget 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.

Dated: May 21, 2013.

John B. Hill,

Assistant Commissioner, Payment Management.

[FR Doc. 2013–12561 Filed 5–29–13; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Direct Deposit, Go Direct, and Direct Express Sign-Up Forms

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Bureau of the Fiscal Service, Fiscal Service, 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 a continuing information collection. By this notice, the Bureau of Fiscal Service solicits comments concerning the Forms 1199A ''Direct Deposit Sign-Up Form'', Form 1200 ''Go Direct Sign-Up Form for Direct Deposit of Federal Benefit Payments'', Form 1200VADE ''Direct Express Sign-Up Form for Direct Deposit for Veterans Affairs Benefits'', Form 1201L ''Direct Express Sign-Up Form for Direct Deposit of Labor'', and Form 1201S ''Social Security and Supplemental Security Federal Benefits''

DATES: Written comments should be received on or before July 29, 2013.

ADDRESSES: Direct all written comments to Bureau of the Fiscal Service, Records and Information Management Branch, Room 135, 3700 East-West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Walt Henderson, Director, EFT Strategy Division, Room 303, 401 14th Street SW., Washington, DC 20227, (202) 874–6624.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Bureau of the Fiscal Service solicits comments on the collection of information described below:

Title: Direct Deposit Sign-Up Form, and Go Direct Sign-Up Form, and Direct Express Form for Direct Deposit of Federal Benefit Payments.

OMB Number: 1510–0007.

Form Number(s): SF–1199A, FMS–1200, FMS–1200VADE, FMS–1201L, FMS–1201S.

Abstract: These forms are used by recipients to authorize the deposit of Federal payments into their accounts at financial institutions. The information on the forms routes the direct deposit payment to the correct account at the financial institution.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households, Business or other for-profit, Federal Government.

Estimated Number of Respondents: 406,715.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 67,786.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget 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.

Dated: May 21, 2013.

John B. Hill,

Assistant Commissioner, Payment Management.

[FR Doc. 2013–12560 Filed 5–29–13; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed priorities. Request for public comment.

SUMMARY: As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rule 5.2 of its Rules of Practice and Procedure, the United States Sentencing Commission is seeking comment on possible priority policy issues for the amendment cycle ending May 1, 2014.

DATES: Public comment should be received on or before July 15, 2013.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle NE., Suite 2–500, South Lobby, Washington, DC 20002–8002, Attention: Public Affairs—Priorities Comment.

FOR FURTHER INFORMATION CONTACT: Jeanne Doherty, Public Affairs Officer, 202–502–4502.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

The Commission provides this notice to identify tentative priorities for the amendment cycle ending May 1, 2014. The Commission recognizes, however, that other factors, such as the enactment of any legislation requiring Commission action, may affect the Commission's ability to complete work on any or all of its identified priorities by the statutory deadline of May 1, 2014. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2014.

As so prefaced, the Commission has identified the following tentative priorities:

(1) Continuation of its work with Congress and other interested parties on statutory mandatory minimum penalties to implement the recommendations set forth in the Commission's 2011 report to Congress, titled *Mandatory Minimum Penalties in the Federal Criminal Justice System,* including its recommendations regarding the severity and scope of mandatory minimum penalties, consideration of expanding the ''safety valve'' at 18 U.S.C. 3553(f), and elimination of the mandatory ''stacking'' of penalties under 18 U.S.C. 924(c), and to develop appropriate guideline amendments in response to any related legislation.

(2) Review, and possible amendment, of guidelines applicable to drug offenses, including possible consideration of amending the Drug Quantity Table in § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) across drug types.

(3) Continuation of its work with the congressional, executive, and judicial branches of government, and other interested parties, to implement the recommendations set forth in the Commission's December 2012 report to Congress, titled *The Continuing Impact of United States* v. *Booker on Federal Sentencing,* and develop appropriate guideline amendments in response to any related legislation.

(4) Continuation of its work on economic crimes, including (A) a comprehensive, multi-year study of § 2B1.1 (Theft, Property Destruction, and Fraud) and related guidelines, including examination of the loss table and the definition of loss, and (B) consideration of any amendments to such guidelines that may be appropriate in light of the information obtained from such study.

(5) Continuation of its multi-year study of the statutory and guideline definitions of ''crime of violence'', ''aggravated felony'', ''violent felony'', and ''drug trafficking offense'', possibly including recommendations to Congress on any statutory changes that may be appropriate and development of guideline amendments that may be appropriate.

(6) Continuation of its comprehensive, multi-year study of recidivism, including (A) examination of circumstances that correlate with increased or reduced recidivism; (B) possible development of recommendations for using information obtained from such study to reduce costs of incarceration and overcapacity of prisons; and (C) consideration of any amendments to the *Guidelines Manual* that may be appropriate in light of the information obtained from such study.

(7) Undertaking a multi-year review of federal sentencing practices pertaining to violations of conditions of probation and supervised release, including possible consideration of amending the policy statements in Chapter Seven of the *Guidelines Manual.*

(8) Possible consideration of amending the policy statement pertaining to ''compassionate release,'' § 1B1.13 (Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons).

(9) Review, and possible amendment, of guidelines applicable to firearms offenses.

(10) Implementation of the Violence Against Women Reauthorization Act of 2013, Public Law 113–4, and any other crime legislation enacted during the 112th or 113th Congress warranting a Commission response.

(11) Resolution of circuit conflicts, pursuant to the Commission's continuing authority and responsibility, under 28 U.S.C. 991(b)(1)(B) and *Braxton* v. *United States,* 500 U.S. 344 (1991), to resolve conflicting interpretations of the guidelines by the federal courts.

(12) Continuation of its work with Congress and other interested parties on child pornography offenses to implement the recommendations set forth in the Commission's December 2012 report to Congress, titled *Federal Child Pornography Offenses,* and to develop appropriate guideline amendments in response to any related legislation.

(13) Consideration of any miscellaneous guideline application issues coming to the Commission's attention from case law and other sources.

The Commission hereby gives notice that it is seeking comment on these tentative priorities and on any other issues that interested persons believe the Commission should address during the amendment cycle ending May 1, 2014. To the extent practicable, public comment should include the following: (1) A statement of the issue, including, where appropriate, the scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to a proposed priority; (2) citations to applicable sentencing guidelines, statutes, case law, and constitutional provisions; and (3) a direct and concise statement of why the Commission should make the issue a priority.

Pursuant to 28 U.S.C. 994(g), the Commission also invites public comment that addresses the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to a proposed priority.

Authority: 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 5.2.

Patti B. Saris,

Chair.

[FR Doc. 2013–12865 Filed 5–29–13; 8:45 am]

BILLING CODE 2210–40–P

FEDERAL REGISTER

Vol. 78 Thursday,

No. 104 May 30, 2013

Part II

The President

Proclamation 8986—National Hurricane Preparedness Week, 2013
Proclamation 8987—Prayer for Peace, Memorial Day, 2013

Federal Register
Vol. 78, No. 104
Thursday, May 30, 2013

Presidential Documents

Title 3—

The President

Proclamation 8986 of May 24, 2013

National Hurricane Preparedness Week, 2013

By the President of the United States of America

A Proclamation

Last year, devastating hurricanes upended coastal communities spanning the shores of New England to the Gulf of Mexico. Scenes from Isaac and Sandy shook us to the core—great cities plunged into darkness, homes swept away with the tide, families whose worlds were torn apart with the loss of a loved one. But in the aftermath, we also saw what is best in America. Heroic first responders rose far beyond the call of duty, working around the clock to rescue, recover, and rebuild. Ordinary citizens fought through tough times together, looking out for their neighbors and leaving nobody behind.

This week, we reaffirm that it is never too early to prepare for this year's hurricane season. As my Administration keeps working with State and local partners to apply lessons learned and improve hurricane preparedness, all families can take simple steps to ensure that if disaster strikes, they are ready. These steps include building a supply kit with food, water, and medicine; taking time now to learn evacuation routes, and how workplaces and schools will respond in an emergency; and most importantly, discussing what to do in a disaster and developing a plan that everyone knows. If a hurricane is coming, always follow instructions from State and local officials, and heed evacuation orders if they are given.

The Federal Government also has an important role to play in hurricane preparedness. My Administration stands shoulder-to-shoulder with our partners in emergency management throughout the public, private, and nonprofit sectors, and we remain committed to getting them the resources they need to act quickly and effectively. Going forward, we will keep working to improve hurricane forecasting with the latest science and technology. And in the months and years ahead, we will continue to help communities stay resilient to severe weather threats and the consequences of climate change. To learn more and get involved, visit www.Ready.gov or www.Listo.gov.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 26 through June 1, 2013, as National Hurricane Preparedness Week. I call upon government agencies, private organizations, schools, media, and residents in the coastal areas of our Nation to share information about hurricane preparedness and response to help save lives and protect communities.

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

[FR Doc. 2013–12982
Filed 5–29–13; 11:15 am]
Billing code 3295–F3

Presidential Documents

Proclamation 8987 of May 24, 2013

Prayer for Peace, Memorial Day, 2013

By the President of the United States of America

A Proclamation

Since our Nation's earliest days, America has been blessed with an unbroken chain of patriots who have served our country with honor and distinction. From Concord to the Korengal, generations of brave warriors have fought for freedom across sand and snow, over mud and mountains, into lonely deserts and through crowded streets. Today, we pay tribute to those patriots who never came back—who fought for a home to which they never returned, and died for a country whose gratitude they will always have.

Scripture teaches us that ''greater love hath no man than this, that a man lay down his life for his friends.'' On Memorial Day, we remember those we have lost not only for what they fought for, but who they were: proud Americans, often far too young, guided by deep and abiding love for their families, for each other, and for this country. Our debt to them is one we can never fully repay. But we can honor their sacrifice and strive to be a Nation equal to their example. On this and every day, we must meet our obligations to families of the fallen; we must uphold our sacred trust with our veterans, our service members, and their loved ones.

Above all, we can honor those we have lost by living up to the ideals they died defending. It is our charge to preserve liberty, to advance justice, and to sow the seeds of peace. With courage and devotion worthy of the heroes we remember today, let us rededicate ourselves to those unending tasks, and prove once more that America's best days are still ahead. Let us pray the souls of those who died in war rest in eternal peace, and let us keep them and their families close in our hearts, now and forever.

In honor of all of our fallen service members, the Congress, by a joint resolution approved May 11, 1950, as amended (36 U.S.C. 116), has requested the President issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer. The Congress, by Public Law 106–579, has also designated 3:00 p.m. local time on that day as a time for all Americans to observe, in their own way, the National Moment of Remembrance.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Memorial Day, May 27, 2013, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time to unite in prayer. I also ask all Americans to observe the National Moment of Remembrance beginning at 3:00 p.m. local time on Memorial Day.

I request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

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

[FR Doc. 2013–12983
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H.R. 360/P.L. 113–11
To award posthumously a Congressional Gold Medal to Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley to commemorate the lives they lost 50 years ago in the bombing of the Sixteenth Street Baptist Church, where these 4 little Black girls' ultimate sacrifice served as a catalyst for the Civil Rights Movement. (May 24, 2013; 127 Stat. 446)

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