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

WHERE: Office of the Federal Register
Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG29

Small Business Size Standards; Educational Services; Correction

Correction

In rule document 2013–14263, appearing on pages 36083–36084 in the issue of Monday, June 17, 2013, make the following correction:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes? [Corrected]

On page 36083, in the table entitled ''SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY'', in the third column, in the third row, '' [16] 35.5'' should read ''$35.5 [16]''.

[FR Doc. C1–2013–14263 Filed 6–21–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0223; Directorate Identifier 2012–CE–049–AD; Amendment 39–17468; AD 2013–11–08]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for Pilatus Aircraft Ltd. Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued 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 failure to inspect and maintain stabilizer-trim attachment components and the flap actuator could result in loss of control. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective July 29, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 29, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket 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 service information identified in this AD, contact PILATUS AIRCRAFT LTD., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 65 01; fax: +41 (0) 41 619 65 76; Internet: *http://www.pilatus-aircraft.com/#32.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 7, 2013 (78 FR 14729), and proposed to supersede AD 2011–01–14, Amendment 39–16571 76 FR 5467; February 1, 2011). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

> The mandatory instructions and airworthiness limitations applicable to the Structure and Components of the PC–6 are specified in the Aircraft Maintenance Manual (AMM) under Chapter 4 or in the Airworthiness Limitations Document (ALS), depending on the aeroplane model.
>
> These documents include the maintenance instructions and/or airworthiness limitations developed by Pilatus Aircraft Ltd. and approved by EASA. Failure to comply with these instructions and limitations could potentially lead to an unsafe condition. To address this potentially unsafe condition EASA issued AD 2010–0176 to require implementation of maintenance instructions and/or airworthiness limitations in accordance with Pilatus PC–6 ALS issue 1, dated 14 May 2010 and Pilatus PC–6 AMM Chapter 4, issue 12, dated 14 May 2010.
>
> Since that AD was issued, Pilatus Aircraft Ltd published Pilatus PC–6 AMM (Number 01975) Chapter 4, issue 16 and PC–6 ALS (Number 02334) issue 3 to introduce a threshold for replacement of previously not listed Flap Actuator.
>
> For the reason described above, this AD retains the requirement of AD 2010–0176, which is superseded, and requires the implementation of more restrictive maintenance requirements and/or airworthiness limitation as specified in issue 16 of Chapter 4 of AMM and issue 3 of ALS. This AD also requires replacement of any Flap Actuator which, on the effective date of this AD, has accumulated or exceeded 7 years since new or since last overhaul.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Use Latest Revision of the Airplane Maintenance Manual

Pilatus Aircraft stated that the latest revision of the Aircraft Maintenance Manual (AMM) 01975 be quoted in the AD, which is Pilatus PC–6 B2–H2/B2–H4 Maintenance Manual, document No. 01975, Revision No. 17, dated December 31, 2012. They stated this will prevent applications for an alternative method of compliance (AMOC) shortly after AD release and that the Airworthiness Limitations Section (ALS) section remained unchanged in this revision of the AMM. They stated the AMM update was released after the MCAI was submitted and the Aircraft Limitations

document 02334 at Revision No. 3, dated July 31, 2012, is correct.

We agree and have added the reference to Pilatus PC–6 B2–H2/B2–H4 Maintenance Manual, document No. 01975, Revision No. 17, dated December 31, 2012 in paragraph (f)(1) of this AD.

Requested Change to Compliance Time

Pilatus Aircraft stated they found the specified compliance time complicated and not as intended in the ALS, therefore, they request the FAA use the compliance time and grace period as specified in the EASA AD 2012–0268 or Pilatus proposes a flight hour limitation also be added to paragraph (f)(3)(ii) in the NPRM. Pilatus commented that should an operator have more than 8 years but less than 8.5 years actuator service with no flight hour limitation, the operator with extreme operating hours may exceed the allowed 3,500-hour TIS or 350-hour TIS grace period.

We agree with this comment. We have revised paragraph (f)(3) to require replacement of the actuator if it has accumulated 3,500 hours TIS or 7 years or more since new or since last overhauled, with a 350-hour TIS or 6-month grace period.

Conclusion

We reviewed the relevant data, considered 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 minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 14729, March 7, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 14729, March 7, 2013).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect 15 products of U.S. registry. We also estimate that it would take about 7 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 the AD on U.S. operators to be $8,925, or $595 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 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.

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 the NPRM, 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.

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 removing Amendment 39–16571 (76 FR 5467, February 1, 2011) and adding the following new AD:

2013–11–08 Pilatus Aircraft Ltd. Airplanes: Amendment 39–17468; Docket No. FAA–2013–0223; Directorate Identifier 2012–CE–049–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 29, 2013.

(b) Affected ADs

This AD supersedes AD number 2011–01–14, Amendment 39–16571 (76 FR 5467; February 1, 2011).

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes, all manufacturer serial numbers (MSN), and MSN 2001 through 2092, that are certificated in any category.

Note 1 of paragraph (c): For MSN 2001–2092, these airplanes are also identified as Fairchild Republic Company PC–6 airplanes, Fairchild Industries PC–6 airplanes, Fairchild Heli Porter PC–6 airplanes, or Fairchild-Hiller Corporation PC–6 airplanes.

(d) Subject

Air Transport Association of America (ATA) Code 5: Time Limits.

(e) Reason

This AD was prompted by inspection requirements of the stabilizer-trim attachment components. The inspection requirements have been revised to now include an additional inspection requirement for the flap actuator. We are issuing this proposed AD to update the maintenance program with new requirements and limitations.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) *For all affected Models PC–6/B2–H2 and PC–6/B2–H4:* Before further flight after July 29, 2013 (the effective date of this AD), incorporate the maintenance requirements as specified in Chapter 04, Airworthiness Limitations, dated July 31, 2012, of the Pilatus PC–6 Maintenance Manual; into your

FAA-accepted maintenance program (maintenance manual).

Note 2 of paragraph (f)(1) of this AD: European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2012–0268, dated December 19, 2012, that discusses revision 16 of the Pilatus PC–6 Maintenance Manual. Revision 16 and revision 17 of the Pilatus PC–6 Maintenance Manual both contain the Chapter 04, Airworthiness Limitations, dated July 31, 2012.

(2) *For all affected Models PC–6 other than the Models PC–6/B2–H2 and PC–6/B2–H4:* Before further flight after July 29, 2013 (the effective date of this AD), incorporate the maintenance requirements as specified in Pilatus PC–6 Airworthiness Limitations, Document No. 02334, Revision No. 3, dated July 31, 2012, into your FAA-accepted maintenance program.

(3) *For all Models PC–6 airplanes:* If the actuator has accumulated 3,500 hours TIS or more since new or last overhauled or 7 years or more since new or last overhauled, whichever occurs first, replacement of the flap actuator (except part numbers 978.73.14.101 and 978.73.14.103) is required within 350 hours TIS after July 29, 2013 (the effective date of this AD) or 6 months after July 29, 2013 (the effective date of this AD), whichever occurs first. Actuators with less than 3,500 hours TIS or 7 years since new or last overhauled are covered by the ALS requirement.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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.

(h) Related Information

Refer to MCAI EASA AD No.: 2012–0268, dated December 19, 2012; and Pilatus PC–6 B2–H2/B2–H4 Airplane Maintenance Manual (AMM); Document No. 01975, revision 17; dated December 31, 2012, for related information. For the Pilatus Aircraft Ltd. related information use the contact information found in paragraph (i)(3) of this AD.

(i) 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) Chapter 04, Airworthiness Limitations, dated July 31, 2012, of the Pilatus PC–6 Maintenance Manual.

(ii) Pilatus PC–6 Airworthiness Limitations, Document No. 02334, Revision No. 3, dated July 31, 2012.

(3) For Pilatus Aircraft Ltd. service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 65 01; fax: +41 (0) 41 619 65 76; Internet: *http://www.pilatus-aircraft.com/#32.*

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(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 Kansas City, Missouri, on May 22, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14967 Filed 6–21–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1327; Directorate Identifier 2012–NE–47–AD; Amendment 39–17478; AD 2013–12–01]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Rolls-Royce plc (RR) model RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines. This AD was prompted by low-pressure (LP) compressor blade partial airfoil release events. This AD requires a one-time ultrasonic inspection of LP compressor blades that had accumulated more than 2,500 flight cycles (FC) since new. We are issuing this AD to prevent LP compressor blade airfoil separations, engine damage, and damage to the airplane.

DATES: This AD becomes effective July 29, 2013. The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 29, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

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 (phone: 800–647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 31, 2013 (78 FR 6749). That NPRM proposed to require a one-time ultrasonic C-scan inspection of LP compressor blades that have accumulated more than 2,500 FC since new. The European Aviation Safety Agency (EASA) subsequently superseded EASA AD 2012–0247, dated November 20, 2012, by issuing EASA AD 2013–0060, dated March 11, 2013, to include a re-inspection requirement for certain LP compressor blades that were not inspected correctly.

The new mandatory continuing airworthiness information (MCAI) states:

Low-Pressure (LP) compressor partial aerofoil blade release events have occurred in service on RR Trent 700 engines. While primary containment of the released sections has been achieved in each case, some of the

releases did exhibit secondary effects that are considered to present a potential hazard. Previously, expeditious actions by RR have mitigated the risks presented by these effects, by removal from service of batches of LP compressor blades. However, some causal factors still exist that are not fully understood.

This condition, if not detected and corrected, could lead to LP compressor blade release with possible consequent loss of the engine nose cowl, under cowl fires and forward projection of secondary debris, possibly resulting in damage to the aeroplane and/or injury to persons on the ground.

To mitigate the risk of further partial fan blade release events, RR issued Non-Modification Service Bulletin (NMSB) RB.211–72–G872, providing instructions for an ultrasonic inspection of the affected LP compressor blades to detect subsurface anomalies in the aerofoil and, depending on findings, replacement of LP compressor blades.

To address this potential unsafe condition, EASA issued AD 2012–0247 to require a one-time inspection of the affected LP compressor blades.

Since that AD was issued, a population of LP compressor blades have been identified as incorrectly inspected and therefore require re-inspection. Consequently, RR issued NMSB RB.211–72–H311 to provide the instructions for this re-inspection.

For the reason described above, this AD retains the requirements of EASA AD 2012–0247, which is superseded, and adds, for the affected group of LP compressor blades, a one-time re-inspection.

Comments

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

Request To Change Summary

RR requested that we change the Summary to state that the AD would require a one-time ultrasonic inspection of LP compressor blades (without being specific to C–scan). The reason for this request is that RR issued Revision 2 to NMSB RB.211–72–G872, dated March 8, 2013, which added phased array as an alternative ultrasonic technique to C–scan.

We agree. We changed the AD Summary to state: ''This AD requires a one-time ultrasonic inspection of LP compressor blades that had . . .''

Request To Change Discussion

RR requested that we change the Discussion to note that EASA AD 2012–0247, dated November 20, 2012, was superseded by EASA AD 2013–0060, dated March 11, 2013, which includes a re-inspection requirement for certain LP compressor blades that were not inspected correctly.

We agree. We referenced EASA AD 2013–0060, dated March 11, 2013 in the Discussion and Related Information paragraphs of this AD.

Request To Change Relevant Service Information

RR requested that the Relevant Service Information paragraph be changed because they issued NMSB RB.211–72–G872, Revision 2, dated March 8, 2013. This NMSB adds phased array ultrasonic inspection as an on-wing or in-shop alternative to the C–scan inspection technique. Also, because certain LP compressor blades were not inspected correctly in accordance with RR NMSB RB.211–72–G872, Revision 1, dated July 2, 2012, RR issued NMSB RB.211–72–H311, dated March 8, 2013, to require re-inspection of blades identified by serial number (S/N). The accomplishment instructions and compliance period for NMSB RB.211–72–H311, dated March 8, 2013, are identical to those of NMSB RB.211–72–G872, Revision 2, dated March 8, 2013. Blades inspected to NMSB RB.211–72–H311, dated March 8, 2013, do not then need inspection to NMSB RB.211–72–G872, Revision 2, dated March 8, 2013.

We partially agree. We agree that RR updated its service information. We do not agree that the Relevant Service Information paragraph be changed, because that paragraph only exists in the proposed AD (78 FR 6749, January 31, 2013). We did not change the AD.

Request To Change AD Requirements Statement

RR requested that we replace the requirements statement, of inspections specific to C–scan, with a statement requiring a one-time ultrasonic inspection of LP compressor blades (without being specific to C–scan).

We agree. We changed the AD Summary to state that the AD requires a one-time ultrasonic inspection of LP compressor blades that had accumulated more than 2,500 FC since new.

Request To Change Compliance Time

RR requested that the compliance time be changed from within 500 FC, to within 500 FC or 10 months, whichever is earlier. RR stated that this change is necessary to ensure compliance within a reasonable period of time.

We agree that a calendar end date is appropriate for AD management, and for that purpose, we agree 10 months is appropriate. We changed the AD to include the 10-month compliance end date.

Request To Change Actions and Compliance

RR requested that paragraph (e) of the AD be changed to reflect the revised inspection methods issued in RR NMSB RB.211–72–G872, Revision 2, dated March 8, 2013, to include a re-inspection requirement for certain blades provided by NMSB RB.211–72–H311, dated March 8, 2013, and to eliminate the requirement to remove the LP compressor blades. RR stated that these changes were needed because the revised inspections in their service information adds phased array ultrasonic inspection and on-wing inspection instructions. RR NMSB RB.211–72–H311 introduces a re-inspection requirement for blades that were previously inspected incorrectly. The on-wing phased array ultrasonic inspection added by NMSB RB.211–72–G872, Revision 2, dated March 8, 2013, and included in NMSB RB.211–72–H311, does not require removal of the blades from the engine for inspection.

We agree. We changed paragraph (e) of this AD to state the following:

For engines with LP compressor blades that have 2,500 FC or more since new or since last inspection using RR NMSB RB.211–72–G702, dated May 23, 2011, perform an ultrasonic inspection of each compressor blade within 500 FC or within 10 months after the effective date of this AD, whichever is sooner. Use paragraphs 3.C through 3.H of RR NMSB RB.211–72–G872, Revision 2, dated March 8, 2013, to do the inspection. You may do the on-wing phased array ultrasonic inspection added by NMSB RB.211–72–G872, and included in NMSB RB.211–72–H311, without removing the blades from the engine for the inspection.

We added a Credit for Previous Actions paragraph (g) of this AD, which states that you may take credit for the ultrasonic C–scan inspection of each LP compressor blade if you performed the inspection before the effective date of this AD using RR NMSB RB.211–72–G872, dated April 3, 2012, or Revision 1, dated July 2, 2012.

Request To Change Actions and Compliance

RR requested that the Actions and Compliance paragraph be changed from ''. . . do not install on an engine any LP compressor blade . . .'' to '' . . . do not install on an engine any replacement blade . . .''. RR stated that the purpose of this change was to avoid confusion in the case that the blades are removed for routine maintenance such as re-lubrication of the blade root.

We partially agree. We agree that blades removed for routine on-wing

maintenance such as the re-lubrication of the blade roots should not be subject to the installation prohibition if they are within the compliance period interval. We do not agree with the use of the word ''replacement'' as it is ambiguous. We changed the Installation Prohibition paragraph (f) of this AD to read: ''After the effective date of this AD, do not install, on any engine, any LP compressor blade that has 2,500 FC or more since new or since last inspection using RR NMSB RB.211–72–G702, dated May 23, 2011, unless the LP compressor blade has passed the ultrasonic inspection required in paragraphs (e)(1) or (e)(2) of this AD. LP compressor blades that are removed for routine on-wing maintenance such as blade root re-lubrication that will subsequently be reassembled into the engine are not subject to this Installation Prohibition.''

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. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect 56 engines installed on airplanes of U.S. registry. We also estimate that it will take about 38 hours per engine to comply with this AD. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be $180,880.

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

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

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

List of Subjects in 14 CFR Part 39

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

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:

2013–12–01 Rolls-Royce plc: Amendment 39–17478; Docket No. FAA–2012–1327; Directorate Identifier 2012–NE–47–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 29, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) model RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines.

(d) Reason

This AD was prompted by low-pressure (LP) compressor blade partial airfoil release events. We are issuing this AD to prevent LP compressor blade airfoil separations, engine damage, and damage to the airplane.

(e) Actions and Compliance

Unless already done, do the following actions.

(1) Inspection of LP Compressor Blade On-Wing or In-Shop

(i) For engines with LP compressor blades that have 2,500 flight cycles (FC) or more since new or since last inspection using RR Non-Mandatory Service Bulletin (NMSB) RB.211–72–G702, dated May 23, 2011, perform an ultrasonic inspection of each LP compressor blade within 500 FC or within 10 months after the effective date of this AD, whichever is sooner.

(ii) Use paragraphs 3.C through 3.H of the Accomplishment Instructions of RR NMSB RB.211–72–G872, Revision 2, dated March 8, 2013, to do the inspection.

(iii) You may do the on-wing phased array ultrasonic inspection added by NMSB RB.211–72–G872, Revision 2, dated March 8, 2013, and included in NMSB RB.211–72–H311, without removing the blades from the engine for the inspection.

(2) Re-Inspection of LP Compressor Blade Identified by Serial Number (S/N)

(i) For engines with LP compressor blades installed and identified by S/N in Appendix 1 of RR NMSB RB.211–72–H311, dated March 8, 2013, and that have, on the effective date of this AD, accumulated 2,500 FC since new or since last inspection using RR NMSB RB.211–72–G702, dated May 23, 2011, perform an ultrasonic inspection of each LP compressor blade.

(ii) The inspection, either on-wing or in-shop, must be performed within 500 FC or 10 months, whichever is sooner, after the effective date of this AD.

(iii) Use paragraphs 3.C through 3.H of the Accomplishment Instructions of RR NMSB RB.211–72–H311, dated March 8, 2013, to do the inspection.

(f) Installation Prohibition

(1) After the effective date of this AD, do not install, on any engine, any LP compressor blade that has 2,500 FC or more since new or since last inspection using RR NMSB RB.211–72–G702, dated May 23, 2011, unless the LP compressor blade has passed the ultrasonic inspection required in paragraphs (e)(1) or (e)(2) of this AD.

(2) LP compressor blades that are removed for routine on-wing maintenance such as blade root re-lubrication that will subsequently be reassembled into the engine are not subject to this Installation Prohibition.

(g) Credit for Previous Actions

You may take credit for the ultrasonic C-scan inspection of each compressor blade if you performed the inspection before the effective date of this AD using RR NMSB RB.211–72–G872, dated April 3, 2012, or Revision 1, dated July 2, 2012.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(i) Related Information

(1) For more information about this AD, contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

(2) European Aviation Safety Agency AD 2013–0060, dated March 11, 2013, pertains to the subject of this AD. You may examine this AD on the Internet at *http://ad.easa.europa.eu/ad/2013-0060.*

(3) RR Non-Mandatory Service Bulletin (NMSB) RB.211–72–G702, dated May 23, 2011, which is not incorporated by reference in this AD, can be obtained from Rolls-Royce plc using the contact information in paragraph (j)(3) of this AD.

(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) Rolls-Royce plc Non-Modification Service Bulletin RB.211–72–H311, dated March 8, 2013.

(ii) Rolls-Royce plc Non-Modification Service Bulletin RB.211–72–G872, Revision 2, dated March 8, 2013.

(3) For Rolls-Royce plc service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby DE24 8BJ, UK; phone: 44 (0) 1332 242424; fax: 44 (0) 1332 249936.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information 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 Burlington, Massachusetts, on June 5, 2013.

Colleen M. D'Alessandro,

Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–14922 Filed 6–21–13; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1216 and 1223

Safety Standards for Infant Walkers and Infant Swings

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In accordance with section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), also known as the Danny Keysar Child Product Safety Notification Act, the U.S. Consumer Product Safety Commission (Commission or CPSC) has published consumer product safety standards for numerous durable infant or toddler products, including infant walkers and infant swings. These standards incorporated by reference the ASTM voluntary standards associated with those products, with some modifications. In August 2011, Congress enacted legislation which sets forth a process for updating standards that the Commission has issued under the authority of the CPSIA. In accordance with that process, the CPSC is publishing this direct final rule, revising the CPSC's standards for infant walkers and infant swings, to incorporate by reference more recent versions of the applicable ASTM standards.

DATES: The rule is effective on October 7, 2013, unless we receive significant adverse comment by July 24, 2013. If we receive timely significant adverse comments, we will publish notification in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publications listed in this rule is approved by the Director of the Federal Register as of October 7, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2013–0025, by any of the following methods:

Submit electronic comments in the following way:

Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov.*

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

FOR FURTHER INFORMATION CONTACT: For information related to the infant walkers standard, contact Carolyn Manley, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814–4408; telephone (301) 504–7607; *cmanley@cpsc.gov.* For information related to the infant swings standard, contact Keysha L. Watson, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814–4408; telephone (301) 504–6820; *kwatson@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The Danny Keysar Child Product Safety Notification Act. The Consumer Product Safety Improvement Act of 2008 (CPSIA, Pub. L. 110–314) was enacted on August 14, 2008. Section 104(b) of the CPSIA, also known as the Danny Keysar Child Product Safety Notification Act, requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. The law requires that these standards are to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. Under the statute, the term ''durable infant or toddler product'' explicitly includes infant walkers and infant swings. In accordance with section 104(b), the Commission has published safety standards for these products that incorporate by reference the relevant ASTM standards, with certain modifications that make the voluntary standard more stringent.

Public Law 112–28. On August 12, 2011, Congress enacted P.L. 112–28, amending and revising several provisions of the CPSIA, including the Danny Keysar Child Product Safety Notification Act. The revised provision sets forth a process for updating CPSC's

durable and infant or toddler standards when the voluntary standard upon which the CPSC standard was based is changed. This provision states:

> If an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. The revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the **Federal Register**) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

Public Law 112–28, section 3.

Notification and Review of Revisions. On April 10, 2013, ASTM notified CPSC of ASTM's approval and publication of revisions to ASTM F977, Standard Consumer Safety Specification for Infant Walkers and ASTM F2088, Standard Consumer Safety Specification for Infant Swings. In its notification, ASTM stated that revisions to these standards have occurred since the Commission adopted the earlier versions of the standards as CPSC mandatory standards.

The Commission has reviewed the revisions. As explained below, ASTM's revisions to its standards for infant walkers and infant swings make these revised ASTM standards nearly the same as the CPSC-mandated standards for these products. In accordance with Public Law 112–28, the revised standard shall be considered a consumer product safety rule unless the Commission notifies ASTM that these revisions do not improve the safety of these consumer products and that the Commission is retaining the existing standard. Because the Commission declines to make such a notification to ASTM, we are publishing this direct final rule, revising the incorporation by reference included in each of these rules so that they will accurately reflect the revised version of the relevant ASTM standards.

B. Revisions to the Particular ASTM Standards

1. Infant Walkers

On June 21, 2010, the Commission published a final rule issuing a safety standard for infant walkers that incorporated by reference ASTM F977–07, *Standard Consumer Specification for Infant Walkers,* with 22 modifications to make the standard more stringent. 75 FR 35266.

ASTM notified CPSC that the current version of the ASTM standard for infant walkers is ASTM F977–12, which was approved on May 1, 2012, and published in May 2012. There have been four revisions to ASTM F977 since publication of ASTM F977–07:

- ASTM F977–09, approved on November 1, 2009, and published in December 2009;
- ASTM F977–11a, approved on September 26, 2011, and also published in September 2011;
- ASTM F977–11b, approved on December 1, 2011, and published in January 2012; and
- ASTM F977–12 approved on May 1, 2012 and also published in May 2012.

The first two revisions referenced above contain changes that matched closely or identically the various modifications included in 16 CFR part 1216. The latter two revisions of ASTM F977 contain changes to the standard that were not included in 16 CFR part 1216.

As revised, ASTM F977–12 differs from 16 CFR part 1216 in the following ways:

- ASTM F977–12 includes a revised forward stability test procedure that is needed for testing certain style walkers;
- Two references to federal regulations that are no longer valid were removed from ASTM F977–12, as well as a requirement that was written in the standard twice;
- A few sections in ASTM F977–12 have modified language that corrects errors or adds clarity to the section; and
- Other minor editorial changes were made throughout the standard, as needed.

Most of these changes are editorial in nature. The change to the forward stability test procedure adds a new step to the test procedure that enables test laboratories to test certain styles of walkers more effectively. This additional step requires the test laboratory to exchange the specified aluminum stop with one that is ''suitable'' to complete the test. Because these changes make the revised ASTM standard nearly the same as the CPSC mandatory standard for walkers, the Commission declines to notify ASTM that it is retaining the existing standard and therefore, in accordance with P.L. 112–28, the revised ASTM standard for infant walkers becomes the new CPSC standard 180 days from the date the CPSC received notification of the revision from ASTM. This rule revises the incorporation by reference at 16 CFR part 1216, to reference the revised ASTM standard.

2. Infant Swings

On November 7, 2012, the Commission published a final rule issuing a standard for infant swings that incorporated by reference ASTM F2088–12a, with two modifications to make the standard more stringent. 77 FR 66703.

ASTM notified CPSC that the current version of the ASTM standard for infant swings is ASTM F2088–13, which was approved on January 15, 2013, and published in February 2013. ASTM F2088–13 is the first revision since 16 CFR part 1223 was published. The changes to the ASTM standard were made specifically to bring the standard into accord with CPSC's regulation. These changes were made to address three sections of the standard:

- Mobile Attachment Strength (7.12);
- Warning labels (8.3.1); and
- Instructional Literature (9.2).

The changes made to the mobile attachment strength section of the standard update the testing requirements to bring testing into accordance with the CPSC regulation. The other changes to this section are editorial and include removing references to the previous test fixture and renumbering the figures to place the figure of the new Hinged Weight Gage—Infant before the other test figures. ASTM F2088–13 revises the warning label requirements that were in ASTM F2088–12a to bring the standard into accord with CPSC's regulation. There are two differences between these changes and CPSC's regulation. First, ASTM switched the order of the first two warnings. The CPSC regulation places the adjustable seat recline warning before the fall and strangulation warning. Second, in the warning about the adjustable seat recline, the CPSC regulation includes the statement: ''Young infants have limited head and neck control.'' To reduce the amount of information on the warning label, ASTM removed that statement from the warning but left it in the instructional literature. The statement was intended to provide more clarification; however, the same information is implied by other references to head control in the warning, so limiting that statement to the instructional literature as ASTM has done in F2088–13 is acceptable.

Because the Commission declines to notify ASTM that it is retaining the existing standard, in accordance with Public Law 112–28, the revised ASTM standard for infant swings becomes the new CPSC standard 180 days from the date we received notification of the revision from ASTM. This rule revises

the incorporation by reference at 16 CFR part 1223 to reference the revised ASTM standard.

C. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are ''impracticable, unnecessary, or contrary to the public interest.'' The Commission concludes that in the context of these revisions to ASTM standards upon which CPSC's durable infant or toddler product standards are based, notice and comment is not necessary. Public Law 112–128 provides for updating of durable infant or toddler product standards that the Commission issues under the Danny Keysar Child Product Safety Notification Act, if ASTM revises the underlying voluntary standard and the Commission does not determine that the revision ''does not improve the safety of the consumer product covered by the standard.''

Without Commission action to update the incorporation by reference in the CPSC's mandated standards, the standard published in the Code of Federal Regulations will not reflect the revised ASTM standard that will be in effect by operation of law under Public Law 112–28. Thus, the Commission believes that issuance of a rule revising the incorporation by reference in these circumstances is appropriate. However, little would be gained by allowing public comment because Public Law 112–28 requires that the CPSC's mandatory standard must change to the revised voluntary standard (unless the Commission has made the requisite finding concerning safety).

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorsed direct final rulemaking as an appropriate procedure to expedite promulgation of rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995).

Thus, the Commission is publishing this rule as a direct final rule because we do not expect any significant adverse comments. Revising the references to the ASTM standards reflects what occurs by operation of law under Public Law 112–28. Therefore, there is little for the public to comment upon. Unless we receive a significant adverse comment within 30 days, the rule will become effective on October 7, 2013. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, including an assertion challenging the rule's underlying premise or approach, or a claim that the rule would be ineffective or unacceptable without change. Should the Commission receive a significant adverse comment, the Commission would withdraw this direct final rule. Depending on the comments and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking providing an opportunity for public comment.

D. Effective Date

Under the procedure set forth in Public Law 112–28, when a voluntary standard organization revises a standard upon which a consumer product safety standard issued under the Danny Keysar Child Product Safety Notification Act was based, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. In accordance with this provision, this rule establishes an effective date that is 180 days after we received notification from ASTM of revisions to these standards. As discussed in the preceding section, this is a direct final rule. Unless the Commission receives a significant adverse comment within 30 days, the rule will become effective on October 7, 2013.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that agencies review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604. The changes to the incorporation by reference in the infant walkers and infant swings standards will not result in any substantive changes to the standards. Therefore, this rule will not have any economic impact on small entities.

F. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement because they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

G. Paperwork Reduction Act

Both the infant walkers standard and the infant swings standard contain information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). No changes have been made to those sections of the standards. Thus, these revisions will not have any effect on the information collection requirements related to those standards.

H. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a ''consumer product safety standard under [the Consumer Product Safety Act (CPSA)]'' is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. (Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances.) The Danny Keysar Child Product Safety Notification Act (at section 104(b)(1)(B) of the CPSIA) refers to the rules to be issued under that section as ''consumer product safety standards,'' thus, implying that the preemptive effect of section 26(a) of the CPSA would apply. Therefore, a rule issued under section 104 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when it becomes effective.

I. Certification

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, be certified as complying with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program or, for children's products, on tests on a sufficient number of samples by a third party conformity assessment body (test laboratory) accredited by the Commission to test according to the applicable requirements. As noted in the preceding discussion, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the

testing and certification requirements of section 14 of the CPSA.

Because infant walkers and infants swings are children's products, they must be tested by a third party conformity assessment body whose accreditation has been accepted by the Commission. They also must comply with all other applicable CPSC requirements, such as the lead content requirements of section 101 of the CPSIA, the tracking label requirement in section 14(a)(5) of the CPSA, and the consumer registration form requirements in the Danny Keysar Child Product Safety Notification Act.

J. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission has previously published notices of requirements for accreditation of third party conformity assessment bodies for testing infant walkers (75 FR 35282 (June 21, 2010)) and infant swings (78 FR 15836 (March 12, 2013)). The notices of requirements provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing infant walkers to 16 CFR part 1216 (which incorporated ASTM F977–07 with modifications) and for testing infant swings to 16 CFR part 1223 (which incorporated ASTM F2088–12a with modifications). This rule revises the references to the standards that are incorporated by reference in the CPSC's infant walkers and infant swings standards.

1. Infant Walkers

As discussed previously, the revised ASTM F977–12 standard for infant walkers is nearly the same as the infant walkers standard that the Commission mandated, with one exception regarding an alternative test method. Section 7.3.2.4 of ASTM F977–12 has added a new alternative test method concerning the forward stability test procedure that would affect how a third party assessment body would test certain styles of walkers. The revised test procedure was added to the ASTM standard because testing laboratories were having difficultly completing the forward stability test on certain styles of walkers. The test method requires that the walkers be manually tipped over. This is accomplished by blocking the walker up against a specified aluminum stop and then applying a horizontal force to the walker until it tips over. The amount of force required to tip the walker over determines whether the walker passes or fails the requirement. With certain styles of walkers, the aluminum stop that is specified in the standard is ineffective, and the walker will not tip over, but rather, the wheels lift and ''jump'' the stop. Therefore, ASTM added an additional step in the test procedure for walkers that will not tip over during the procedure specified in section 7.3.2.4 of the revised standard. This additional step requires the third party conformity assessment body to exchange the specified aluminum stop with one that is ''suitable'' to complete the test.

Thus, revising the infant walkers reference will necessitate, in limited circumstances, one change in the way that third party conformity assessment bodies are testing walkers for compliance to the CPSC standard. However, the Commission considers the existing accreditations that the Commission has accepted for testing to the infant walkers standard to continue to be acceptable because the original test method for ASTM F977–07 remains unchanged in ASTM F977–12 for most walkers that undergo the test. The existing NOR remains in place for ASTM F977, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of their accreditation to reflect ASTM F977–12 in the normal course of renewing their accreditation. Third party conformity assessment bodies that are currently accepted by the CPSC to test for ASTM F977–07 may conduct testing for the alternative test method in ASTM F977–12 before having updated their scope of accreditation under the normal renewal process.

2. Infant Swings

As discussed previously, the revised standard for infant swings, ASTM F2088–13, is nearly the same as the infant swings standard that the Commission mandated. The principal difference is in requirements for the warning label. This would not necessitate any change in the way that a test laboratory would test the product. Thus, revising the reference to specify ASTM F2088–13 will not necessitate any change in the way that third party conformity assessment bodies are testing infant swings for compliance to CPSC the standard. Therefore, the NOR does not require modification, and the Commission considers the existing accreditations that the Commission has accepted for testing to the ASTM F2088–12a infant swings standard also to cover testing to the revised standard, ASTM F2088–13.

List of Subjects in 16 CFR Parts 1216 and 1223

Consumer protection, Incorporation by reference, Imports, Infants and children, Law enforcement, Safety, Toys.

For the reasons stated above, the Commission amends Title 16 CFR chapter II as follows:

PART 1216—SAFETY STANDARD FOR INFANT WALKERS

■ 1. The authority citation for part 1216 is revised to read as follows:

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. L. 110–314, Sec. 104, 122 Stat. 3016 (August 14, 2008); section 3 of Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

■ 2. Revise § 1216.2 to read as follows:

§ 1216.2 Requirements for infant walkers.

Each infant walker shall comply with all applicable provisions of ASTM F977–12, Standard Consumer Safety Specification for Infant Walkers, approved on May 1, 2012. The Director of the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of these ASTM standards from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959 USA, telephone: 610–832–9585; *http://www.astm.org/*. You may inspect copies at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or 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/code_of_federal_regulations/ibr_locations.html*.

PART 1223—SAFETY STANDARD FOR INFANT SWINGS

■ 3. The authority citation for part 1223 is revised to read as follows:

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. L. 110–314, Sec. 104, 122 Stat. 3016 (August 14, 2008); section 3 of Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

■ 4. Revise § 1223.2 to read as follows:

§ 1223.2 Requirements for infant swings.

Each infant swing shall comply with all applicable provisions of ASTM F2088–13, Standard Consumer Safety Specification for Infant Swings, approved on January 15, 2013. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy

from ASTM International, 100 Barr Harbor Drive, PO Box 0700, West Conshohocken, PA 19428; telephone 610–832–9585; *www.astm.org*. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or 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/code_of_federal_regulations/ibr_locations.html*.

Dated: June 19, 2013.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2013–14991 Filed 6–21–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0020]

Safety Zone; Milwaukee Air and Water Show; Lake Michigan; Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Michigan in Milwaukee, Wisconsin for the Milwaukee Air and Water Show. This action is necessary and intended to ensure safety of life on the navigable waters during the 2013 Milwaukee Air and Water Show. During the aforementioned periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port, Lake Michigan.

DATES: This zone will be enforced from 8:30 a.m. until 5 p.m. on each day of July 31 and August 1, 2, 3, and 4, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.929(a)(42) as well as the general regulations in 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, for the Milwaukee Air and Water Show. This zone will be enforced from 8:30 a.m. until 5 p.m. on each day of July 31 and August 1, 2, 3, and 4, 2013.

All vessels must obtain permission from the Captain of the Port, Lake Michigan, or his or her on-scene representative to enter, move within, or exit a safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with advance notification of this event via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port determines that the enforcement of these safety zones need not occur as stated in this notice, he or she might suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: June 3, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–14954 Filed 6–21–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0386]

RIN 1625–AA00

Safety Zone; Wicomico Community Fireworks Rain Date, Great Wicomico River, Heathsville, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Great Wicomico River in the vicinity of Mila, VA for the Wicomico Community Fireworks event Rain Date. This action is necessary to provide for the safety of life on navigable waters during the Wicomico Community Fireworks event. This action is intended to restrict vessel traffic movement on the Great Wicomico River to protect mariners from the hazards associated with fireworks displays.

DATES: This rule is effective on July 7, 2013, from 9 p.m. to 10 p.m.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2013–0386 and are available online by going to *http://www.regulations.gov,* inserting USCG–2013–0386 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LCDR Hector Cintron, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757–668–5581, email *Hector.L.Cintron@uscg.mil*. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. The Coast Guard did not learn of the need for a rain date until insufficient time remained before the fireworks display. As such, it is impracticable because immediate action is necessary to

provide for the safety of life and property on navigable waters.

Under 5 U.S.C. 553(d)(3), for the same reasons as noted earlier, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be impracticable and contrary to the public interest since immediate action is needed to ensure the safety of the event participants, spectator craft, and other vessels transiting the event area.

B. Background and Purpose

On July 4, 2013, the Wicomico Community Fireworks, LLC will sponsor a fireworks display. If the scheduled event is cancelled on July 4, 2013, the event will instead take place on July 7, 2013. The fireworks display will be held on the Great Wicomico River in the vicinity of Heathsville, VA. Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, access to the Great Wicomico River will be temporarily restricted.

C. Discussion of the Rule

The Coast Guard is establishing a safety zone on specified waters of the Great Wicomico River in the vicinity of Heathsville, Virginia. The fireworks will be launched from land adjacent to the Great Wicomico River and the safety zone is intended to protect mariners from any fall out that may enter the water. This safety zone will encompass all navigable waters within 420 feet of the fireworks launching platform located at position 37°50′31″ N/ 076°19′42″ W. This safety zone will be established during the Wicomico Community Fireworks event and will be enforced from 9 p.m. until 10 p.m. on July 7, 2013. Access to the safety zone will be restricted during the specified date and times. Except for individuals responsible for launching the fireworks and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Although this regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; (iii) mariners may transit the waters in and around this safety zone at the discretion of the Captain of the Port or designated representative; and (iv), the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

The rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in that portion of the Great Wicomico River from 9 p.m. until 10 p.m. on July 7, 2013.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The safety zone will only be in place for a limited duration. (ii) Before the enforcement period of July 7, 2013, maritime advisories will be issued allowing mariners to adjust their plans accordingly. (iii) This regulation will only be enforced if inclement weather caused the cancellation of the fireworks display currently scheduled for July 4, 2013.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701; 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T05–0386, to read as follows:

§ 165.T05–0386 Safety Zone; Wicomico Community Fireworks Rain Date, Great Wicomico River, Mila, VA

(a) *Regulated area.* The following area is a safety zone: Specified waters of the Great Wicomico River located within a 420 foot radius of the fireworks display at approximate position 37°50′31″ N/076°19′42″ W in Heathsville, VA.

(b) *Definition.* For purposes of enforcement of this section, *Captain of the Port Representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulation.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign; and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads, Virginia can be contacted at telephone number (757) 638–6637.

(4) U.S. Coast Guard vessels enforcing the safety zone can be contacted on VHF–FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement period.* This regulation will be enforced from 9 p.m. until 10 p.m. on July 7, 2013, if the event is cancelled on July 4, 2013.

Dated: June 3, 2013.

John K. Little,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 2013–14955 Filed 6–21–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0020]

Safety Zone; Chicago Match Cup Race; Lake Michigan; Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Michigan near Chicago, Illinois for the 2013 AWMRT Chicago Match Cup Race. This zone will be enforced from 8 a.m. until 8 p.m. on each day of August 6, 7, 8, 9, 10, and 11, 2013. This action is necessary and intended to ensure safety of life on the navigable waters during the 2013 AWMRT Chicago Match Cup. During the aforementioned periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port, Lake Michigan.

DATES: This regulation will be enforced at the dates and times listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.929(a)(76) as well as the general regulations in 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, for the 2013 AWMRT Chicago Match Cup. This zone will be enforced from 8 a.m. until 8 p.m. on each day of August 6, 7, 8, 9, 10, and 11, 2013.

All vessels must obtain permission from the Captain of the Port, Lake Michigan, or the on-scene representative to enter, move within, or exit a safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or a designated representative. Vessels that wish to transit through the safety zones may request permission from the Captain of the Port Lake Michigan. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.929(a)(76), and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with advance notification of this event via Broadcast Notice to Mariners that the regulation is in effect. If the Captain of the Port determines that the enforcement of these safety zones need not occur as stated in this notice, he or she might suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners. The Captain of the Port, Lake Michigan, or his or her on-scene representatives may be contacted on channel 16, VHF–FM.

Dated: June 3, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–14956 Filed 6–21–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0020]

Safety Zone; Chicago Air and Water Show; Lake Michigan; Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Michigan near Chicago, Illinois for the Chicago Air and Water Show. This zone will be enforced from 8:30 a.m. until 5 p.m. on each day of August 14, 15, 16, 17, and 18, 2013. This action is necessary and intended to ensure safety of life on the navigable waters during the 2013 Chicago Air and Water Show. During the aforementioned periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port, Lake Michigan.

DATES: This regulation will be enforced at the dates and times listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.929(a)(63) as well as the general regulations in 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, for the Chicago Air and Water Show. This zone will be enforced from 8:30 a.m. until 5 p.m. on each day of August 14, 15, 16, 17, and 18, 2013.

All vessels must obtain permission from the Captain of the Port, Lake Michigan, or his or her on-scene representative to enter, move within, or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or a designated representative. Vessels that wish to transit through the safety zones may request permission from the captain of the Port Lake Michigan. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. While within the safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.929(a)(63), Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this event via Broadcast Notice to Mariners or Local Notice to Mariners. If the captain of the Port determines that the enforcement of these safety zones need not occur as stated in this notice, he or she might suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: June 3, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–14953 Filed 6–21–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 2

[NPS–WASO–REGS–8546; PXXVPADO515]

RIN 1024–AD91

General Regulations; National Park System, Demonstrations, Sale or Distribution of Printed Matter

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service is amending its interim regulations governing demonstrations and the sale or distribution of printed matter applicable to most units of the National Park System. The rule clarifies provisions regarding permits for demonstrations or distributing printed matter and in management of two or more small (non-permit) groups seeking to use at the same time, an area that has been designated as available for these activities.

DATES: This rule is effective June 24, 2013.

FOR FURTHER INFORMATION CONTACT: Lee Dickinson, Special Park Use Program Manager, 1849 C St. NW., Washington, DC, 20240 (202) 208–4206.

SUPPLEMENTARY INFORMATION:

Background

On October 19, 2010, the National Park Service (NPS) issued an interim rule that revised regulations at 36 CFR 2.51 and 2.52 that governed demonstrations and the sale or distribution of printed matter applicable to most areas of the National Park System, and added two public conduct

provisions to regulations at 36 CFR 2.31, that prohibit harassing visitors and obstructing public passageways. The interim rule became effective immediately upon publication in the **Federal Register** October 19, 2010 (75 FR 64148) and requested public comment.

As more fully detailed in the preamble to the interim rule, the NPS is governed by the NPS Organic Act as well as by First Amendment jurisprudence. Currently consisting of 401 park units in all 50 states, the District of Columbia, and various U.S territories, the National Park System encompasses more than 84 million acres. These park units are located in a wide range of environments as diverse as the United States itself. The size of these park units also varies tremendously, ranging from Wrangell-St. Elias National Park and National Preserve, Alaska, at 13.2 million acres to Thaddeus Kosciuszko National Memorial, Pennsylvania, at 0.02 acres. About one-third of the units of the National Park System preserve nature's many and varied gifts to the Nation, while the other two-thirds recognize benchmarks of human history in America.

The National Park System provides habitat for 378 threatened or endangered species, has more than 100 million items in museum collections, has 1.5 million archaeological sites, and has 27,000 historic and prehistoric structures. The National Park System also has an extensive physical infrastructure, which includes thousands of buildings, tens of thousands of miles of trails and roads, and almost 30,000 housing units, campground, and picnic areas as well as 3,000 water and wastewater treatment systems.

According to the NPS Statistical Abstract, in 2012 there were approximately 282 million visits to units of the National Park System that offers visitors not only visual, educational, and recreational experiences but also inspirational, contemplative, and spiritual experiences. For neighboring Native Americans, certain National Parks are also considered sacred sites, where the NPS asks visitors to respect these long-standing beliefs.

Equally important, the National Park System has traditionally offered visitors the opportunity to engage in demonstration activity and the sale or distribution of printed matter in designated park areas. In that regard, the NPS general regulations at 36 CFR 2.51 and 2.52, applicable to parks not subject to 36 CFR 7.96(g), have governed such activities since 1983.

> [Enacted] . . . to protect the natural and cultural resources of the parks and to protect visitors and property within the parks, [these NPS general regulations] intended effect . . . is to impose on those activities that involve First Amendment consideration only those narrow restrictions that are necessary to protect park resources and to ensure the management of park areas for public enjoyment.

48 FR 30252, 30272, June 30, 1983.

In 2010, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision in *Boardley* v. *Department of the Interior,* 615 F.3d 508 (D.C. Cir. 2010), which stemmed from a demonstration and leaflet-distribution incident at Mount Rushmore National Memorial, South Dakota, for which the NPS had required a permit. The Court of Appeals vacated §§ 2.51 and 2.52 in their entirety, based on the system-wide lack of an exception from the permit requirement for individual and small-group activity in NPS-designated free speech areas. The U.S. District Court for the District of Columbia in *Boardley* v. *Department of the Interior,* 605 F. Supp. 2d 8 (D.D.C. 2009), had earlier also found fault with the NPS's regulatory definition of a demonstration.

Consistent with these judicial decisions and in order to avoid a regulatory vacuum that could impact the NPS's conservation mandate and the use of park areas by the public, the NPS issued the interim rule governing demonstrations and the sale or distribution of printed matter applicable to most of the National Park System. While retaining the park superintendent's ability to designate available areas as well as the permit requirement for large groups, the NPS interim rule narrowed the definition of what constitutes a demonstration; created a small-group permit exception; detailed how the NPS addresses competing small (non-permit) groups that seek to use the same designated area; refined how applications are to be processed; and prohibited harassment of visitors by physical touch or by obstruction of building entranceways, sidewalks, and other public passageways.

Consistent with evolving First Amendment jurisprudence, the interim rule as revised by this final rule is intended to protect the natural and cultural resources of the National Park System and to protect visitors and property within the parks by imposing on demonstrators only the most limited restrictions necessary to accomplish those goals.

Response to Comments and Supplemental Explanation of the Interim Regulations

When the interim rule was published, the NPS requested public comments to be submitted by December 19, 2010. The NPS received four comments, each through the Federal eRulemaking Portal at *http://www.regulations.gov*. The NPS reviewed the comments and, besides reaffirming and incorporating by reference its explanation found in its earlier rulemaking, offers the following responses to the issues raised.

One comment disagreed with the NPS decision to exempt small groups of under 25 persons from the requirement to obtain a permit, and stated that all individuals should be required to obtain a permit, although through an easier permit process. To be consistent with the Court of Appeals decision in *Boardley,* the NPS believes that it is legally obligated to create a regulatory small-group permit exception.

Another comment stated that small groups that simply hand out printed material should not be required to get a permit, unless their activity involves tables, signs, banners, or drums. Consistent with the Court of Appeals decision in *Boardley,* the NPS interim rule created a small-group permit exception for sale or distribution of printed matter in designated free speech areas. While the NPS interim rule at 36 CFR 2.52(b)(1) and this final rule allow for small groups to sell or distribute printed matter and use hand-carried signs without a permit, the use of stages, platforms or structures will require a permit. As the NPS explained in the preamble to the interim rule, this is because the unregulated presence of such structures would negatively impact park resources and park visitors. A permit allows the superintendent to consider the impact of the proposed equipment and to impose content-neutral, site-specific and reasonably appropriate resource-protection and safety conditions. Because a drum is a musical instrument, such use would be governed by the NPS audio disturbance regulations found at 36 CFR 2.12(a)(1)(i)–(ii).

One comment thought that by defining a small group as 25 or fewer persons, too many groups fell within the ''target'' of the NPS interim rule. The comment used the example of a school field trip of 26 or more students and chaperones, and expressed concern that it might be considered an unlawful demonstration if the participants communicate or express their views at a national park. The comment suggests that the small-group permit exception

should be enlarged to 50 persons, to help accommodate normal school field trip activity and other gatherings.

The NPS believes that the interim rule's more narrowly limited definition of demonstration already addressed this concern. As the NPS explained in the preamble to the interim rule:

> Application of the NPS's narrowed definition of a demonstration thus excludes visitors who merely have tattoos or are wearing baseball caps, T-shirts, or other articles of clothing that convey a message; or visitors whose vehicles merely display bumper stickers. By limiting the definition of what constitutes a demonstration, and by explicitly excluding casual park use by visitors or tourists which is not reasonably likely to attract a crowd or onlookers—such as when scout leaders or teachers engage in discussions with their charges—the NPS believes that the rule comports with the First Amendment and is narrowly tailored to serve significant government interests.

75 FR 64150, October 19, 2010.

The NPS's selection of 25 persons as the number of individuals that generally qualify for the small-group permit exception is also consistent with the Court of Appeal's decision in *Boardley* that explicitly recognized that the agency may decide where to draw that line. 615 F.3d at 525. The NPS believes that its determination is reasonable; it also is identical to a long-standing small-group permit exception in the NPS's special regulations for the National Capital Region at 36 CFR 7.96(g)(2)(1).

One comment asked if sound systems are allowed without a permit. This question is answered by 36 CFR 2.12(a)(4), which requires individual(s) who want to operate a public address system in connection with demonstrations and special events to obtain a permit.

One comment asked if a small group needs a permit to engage in demonstration or printed matter activities that are located outside of a park-designated First Amendment area.

Consistent with the NPS's interim rule, demonstrations and printed matter distributions are limited to locations designated by the superintendent as available for these activities. If a person or group wishes to engage in such activities in an area not designated by the superintendent, the person or group may request in writing that the superintendent reconsider whether the area should be designated as available under 36 CFR 2.51(c). This regulation does not alter a dissatisfied petitioner's right, if any, to challenge a superintendent's designation of any area under 36 CFR 2.51(c) under the Administrative Procedure Act.

One comment stated that designated free speech areas needed to be clearly described to preserve the parks as educational places and asked what steps parks could take to avoid disturbances there. The NPS believes that the interim rule addressed these issues. Specifically, 36 CFR 2.51(c)(2) provides that the superintendent must designate on a map, which must be available in the office of the superintendent and by public notice, the locations designated as available for demonstrations and the sale or distribution of printed matter. As for concerns about disturbances there, any NPS action must comport with relevant First Amendment jurisprudence.

It is firmly settled under our Constitution that the public expression of ideas may not be prohibited merely because the ideas themselves are offensive to some of their hearers. *Street v. New York,* 394 U.S. 576, 592 (1969). While speech is often provocative and challenging, it is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of serious substantive evil that rises far above public inconvenience, annoyance or unrest. *Terminiello* v. *Chicago,* 337 U.S. 1, 4 (1949). In response to a disturbance, in a designated First Amendment area or elsewhere, the NPS will take action consistent with relevant First Amendment jurisprudence. Such NPS actions may generally center on whether the unlawful disturbance violates the NPS regulations, such as those prohibiting harassment, obstruction, or disorderly conduct at 36 CFR 2.31(a)(4)–(5), and 2.34.

Finally, the NPS interim rule's 36 CFR 2.51(b)(2) and 2.52(b)(2), and this final rule request that an organizer, who seeks to take advantage of the small-group permit exception, provide reasonable notice to the superintendent if the organizer has reason to believe there may be an attempt to disrupt, protest, or prevent the event. While not mandatory, this voluntary notice provision gives park officials an opportunity to plan additional public safety and resource protection measures. The NPS had asked for comments at 75 FR 64151, October 19, 2010, whether such notice should be made mandatory in future regulations. The NPS received no comments on this issue and will defer to future rulemaking whether such notice should be made mandatory.

Clarifications of the Interim Regulations

After further internal review, the NPS is making three clarifications and one correction to the interim rule. Two clarifications, at 36 CFR 2.51(f) and 2.52(e), are intended to make the regulatory text more explicit that the superintendent must either issue a permit or a written denial within ten days of receiving a complete and fully executed application. The ten-day action deadline, to issue either a permit or a written denial, was clearly part of the NPS's intention in the interim rule and is consistent with the Court of Appeals decision in *Boardley,* which found the NPS's regulatory deadline to be reasonable under the Supreme Court's First Amendment jurisprudence. 615 F.3d at 519 (*citing Thomas* v. *Chicago Park District,* 534 U.S. 316, 318 (2002)).

The third clarification, at 36 CFR 2.52(b)(4), inserts the phrase ''to use.'' Inadvertently omitted in the initial rulemaking, the phrase clarifies the situation when a park addresses two or more (non-permitted) small groups that are seeking to use the same designated area at the same time. The paragraph is identical to 36 CFR 2.51(b)(4), and has been amended to read as set forth in the regulatory text of this rule.

Finally, the NPS is making one correction to fix a clerical error, by deleting the word ''and'' at the end 36 CFR 2.52(b)(1)(i). The sentence has been amended to read: None of the reasons for denying a permit that are set out in paragraph (e) of this section are present;.

Effective Date

This final rule is effective immediately. To the extent it is a substantive rule, it relieves a restriction on permit applicants, in that it provides more explicitly for a prompt response by the superintendent to the application. The other clarifications and corrections in this rule, while necessary, are essentially non-substantive. The Department of the Interior also finds that there is good cause for making this rule effective immediately, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d)(3) and 318 DM 6.25. As noted above, the ten-day response deadline was clearly part of NPS's intention in the interim rule. Because this clarification makes the rule more consistent with the Court of Appeals decision in *Boardley,* it should go into effect immediately. Moreover, there would be a benefit to the public in making the rule effective immediately, in that it clarifies and corrects provisions governing the permit application process.

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant because it will raise novel legal or policy issues. The rule amends existing NPS interim regulations applicable to most areas of the National Park System, pertaining to demonstrations and sale or distribution of printed matter. The rule also clarifies provisions governing permits for demonstrations and sale or distribution of printed matter and for managing groups engaged in these activities.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*).

The rule only amends existing NPS regulations to clarify regulatory text. Other organizations with interest in the rule will not be effected economically.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804 (2), the SBREFA. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA, (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

Under the criteria in section 2 of Executive Order 12630, this rule does not have significant takings implications. It pertains specifically to operation and management of locations outside the NPS-National Capital Region. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of Federalism summary impact statement. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3 (a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3 (b) (2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. The rule only applies to management and operation of NPS areas outside the National Capital Region.

Paperwork Reduction Act (PRA)

This rule contains information collection requirements, and a submission under the PRA is required. A Federal agency may not conduct or sponsor and you are not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has approved the information collections in this rule and has assigned control number 1024–0026, expiring on June 30, 2013. We estimate the burden associated with this information collection to be thirty (30) minutes. The information collection activities are necessary for the public to obtain benefits in the form of special park use permits.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required because the rule is covered by a categorical exclusion. We have determined that the rule is categorically excluded under 516 DM 12.5(A)(10) as it is a modification of existing NPS regulations that does not increase public use to the extent of compromising the nature and character of the area or causing physical damage to it. Further, the rule will not result in the introduction of incompatible uses which might compromise the nature and characteristics of the area or cause physical damage to it. Finally, the rule will not cause conflict with adjacent ownerships or land uses, or cause a nuisance to adjacent owners or occupants. We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects in 36 CFR Part 2

Environmental protection, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 2 as set forth below:

PART 2—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

■ 1. The authority citation for Part 2 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

■ 2. In § 2.51 revise the introductory text of paragraph (f) to read as follows:

§ 2.51 Demonstrations.

* * * * *

(f) *Processing the application.* The superintendent must issue a permit or a written denial within ten days of receiving a complete and fully executed application. A permit will be approved unless:

* * * * *

■ 3. In § 2.52 revise paragraph (b)(1)(i), paragraph (b)(4), and the introductory text of paragraph (e) to read as follows:

§ 2.52 Sale or distribution of printed matter.

* * * * *

(b) * * *

(1) * * *

(i) None of the reasons for denying a permit that are set out in paragraph (e) of this section are present;

* * * * *

(4) In the event that two or more groups taking advantage of the small group permit exception seek to use the same designated available area at the same time, and the area cannot reasonably accommodate multiple occupancy, the superintendent will, whenever possible, direct the later arriving group to relocate to another nearby designated available area.

* * * * *

(e) *Processing the application.* The superintendent must issue a permit or a written denial within ten days of receiving a complete and fully executed application. A permit will be approved unless:

* * * * *

Dated: June 12, 2013.

Michael J. Bean,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–15005 Filed 6–21–13; 8:45 am]

BILLING CODE 4312–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2012–0889; FRL–9826–9]

Adequacy Status of the Submitted 2009 and 2025 $PM_{2.5}$ Motor Vehicle Emission Budgets for Transportation Conformity Purposes for New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this action, EPA is notifying the public that we have found that the motor vehicle emissions budgets for $PM_{2.5}$ and NO_X in the submitted maintenance plans for the New Jersey portions of the New York-Northern New Jersey-Long Island, NY-NJ-CT, and Philadelphia-Wilmington, PA-NJ-DE, $PM_{2.5}$ nonattainment areas to be adequate for transportation conformity purposes. The transportation conformity rule requires that the EPA conduct a public process and make an affirmative decision on the adequacy of budgets before they can be used by metropolitan planning organizations in conformity determinations. As a result of our finding, two metropolitan planning organizations in New Jersey (the North Jersey Transportation Planning Authority and the Delaware Valley Regional Planning Commission) must use the new 2009 and 2025 $PM_{2.5}$ budgets for future transportation conformity determinations.

DATES: This finding is effective July 9, 2013.

FOR FURTHER INFORMATION CONTACT: Matt Laurita, Air Programs Branch, Environmental Protection Agency—Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3895, *laurita.matthew@epa.gov.*

The finding and the response to comments will be available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

SUPPLEMENTARY INFORMATION:

Background

On December 26, 2012, New Jersey submitted redesignation requests and maintenance plans to EPA for both the New York-Northern New Jersey-Long Island, NY-NJ-CT (Northern New Jersey), and Philadelphia-Wilmington, PA-NJ-DE (Southern New Jersey), $PM_{2.5}$ nonattainment areas. The purpose of New Jersey's submittal was to request a redesignation to attainment for both the 1997 and 2006 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS) and submit a state implementation plan to provide for maintenance of the standard for the first ten years of a 20-year maintenance period. New Jersey's request was pursuant to EPA's findings that that the Northern New Jersey area had attained the 1997 (75 FR 69589) and 2006 (77 FR 76867) $PM_{2.5}$ NAAQS, and that the Southern New Jersey area had attained the 1997 (77 FR 28782) and 2006 (78 FR 882) $PM_{2.5}$ NAAQS, based on ambient air quality monitoring data. New Jersey's submittal included motor vehicle emissions budgets (''budgets'') for 2009 and 2025 for use by the State's metropolitan planning organizations in making transportation conformity determinations. On September 12, 2012, EPA posted the availability of the budgets our Web site for the purpose of soliciting public comments. The comment period closed on October 12, 2012, and we received no comments.

New Jersey developed these budgets, as required, for the last year of its maintenance plan, 2025, and an additional year, 2009, for the purpose of establishing budgets for the near-term based on EPA's MOVES model. Previously established and approved budgets had been based on MOBILE6.2. New Jersey also determined that budgets based on annual emissions of direct $PM_{2.5}$ and NO_X, a precursor, are appropriate for the 2006 daily standard because exceedences of the standard were not isolated to one particular season; therefore, the budgets being found adequate today will be used by transportation agencies to meet conformity requirements for both the annual and daily standards.

The 2009 budgets were developed without an accompanying full emissions inventory. EPA believes that this approach is approvable and is consistent with attainment and maintenance of both the 1997 and 2006 $PM_{2.5}$ standards because of our earlier determinations that both the Northern New Jersey and Southern New Jersey $PM_{2.5}$ nonattainment areas had attained the standards based on monitored air quality that included the year 2009.

The budgets for 2025 reflect the total on-road emissions for 2025, plus an allocation from the available NO_X and $PM_{2.5}$ safety margins. Under 40 CFR 93.101, the term ''safety margin'' is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. New Jersey chose to add 8% of the available safety margin to

both the $PM_{2.5}$ and NO_X budgets for 2025 for both the Northern New Jersey and Southern New Jersey nonattainment areas. The NO_X and $PM_{2.5}$ budgets and safety margin allocations were developed in consultation with the transportation partners and were added to accommodate expected future improvements to MOVES model inputs and methodologies.

In the submittal, the State has also established ''sub-area budgets'' for the two metropolitan planning organizations (MPO) within the Northern New Jersey nonattainment area: the North Jersey Transportation Planning Authority (NJTPA) and the Delaware Valley Regional Planning Commission (DVRPC). These sub-area budgets allow each MPO to work independently to demonstrate conformity by meeting its own $PM_{2.5}$ and NO_X budgets. Each MPO must still verify, however, that the other MPO currently has a conforming long range transportation plan and transportation improvement program (TIP) prior to making a new plan or TIP conformity determination. The budgets for both the Northern New Jersey and Southern New Jersey areas are defined in Tables 1 and 2 below.

Adequacy Process

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the National Ambient Air Quality Standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

We have described our process for determining the adequacy of submitted SIP budgets in 40 CFR 93.118(f). We have followed this rule in making our adequacy determination. The motor vehicle emissions budgets being found adequate today are listed in Tables 1 and 2 and include direct $PM_{2.5}$ and its precursor, NO_X. EPA's finding will also be announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

EPA Review

EPA's adequacy review of New Jersey's submitted budgets indicates that the budgets meet the adequacy criteria set forth by 40 CFR 93.118(e)(4), as follows:

(i) *The submitted control strategy implementation plan revision or maintenance plan was endorsed by the Governor (or his or her designee) and was subject to a State public hearing:* The SIP revision was submitted to EPA by the Commissioner of the New Jersey Department of Environmental Protection, who is the Governor's designee.

(ii) *Before the control strategy implementation plan or maintenance plan was submitted to EPA, consultation among federal, State, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns, if any, were addressed:* New Jersey conducted an interagency consultation process involving EPA and USDOT, the New Jersey Department of Transportation and affected MPOs. All comments and concerns were addressed prior to the final submittal.

(iii) *The motor vehicle emissions budget(s) is clearly identified and precisely quantified:* The budgets were clearly identified and quantified and are presented here in Tables 1 and 2.

(iv) *The motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for maintenance:* Both the 2009 and 2025 budgets are less than the on-road mobile source inventory for 2007 that was shown to be consistent with attainment of the standards. In addition, the 2009 budgets are for a year in which EPA has determined that New Jersey attained the applicable air quality standards and are therefore consistent with maintenance of the respective standards.

(v) *The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan revision or maintenance plan:* The budgets were developed from the on-road mobile source inventories, including all applicable state and Federal control measures. Inputs related to inspection and maintenance and fuels are consistent with New Jersey's Federally-approved control programs.

(vi) *Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see § 93.101 for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled):* The submitted maintenance plan establishes new 2009 and 2025 budgets to ensure continued maintenance of the standards; therefore, this is not applicable.

Adequacy Finding

Today's action is simply an announcement of a finding that we have already made. EPA Region 2 sent a letter to New Jersey on May 14, 2013, stating that the 2009 and 2025 motor vehicle emissions budgets in New Jersey's SIPs for both the Northern New Jersey and Southern New Jersey $PM_{2.5}$ nonattainment areas are adequate because they are consistent with the required maintenance demonstration. In our letter we noted that there are existing approved and adequate budgets for 2009, but that the 2009 budgets contained in the submitted maintenance plans will be the most recent budgets in place to satisfy the latest Clean Air Act requirement and therefore will be the applicable 2009 budgets to be used in future transportation conformity determinations for analysis years prior to 2025.

TABLE 1—2009 $PM_{2.5}$ MOTOR VEHICLE EMISSIONS BUDGETS FOR NEW JERSEY

[Tons per year]

Metropolitan planning organization	Direct $PM_{2.5}$	NO_X
North Jersey Transportation Planning Authority	2,736	67,272
Delaware Valley Regional Planning Commission (Mercer County only)	224	5,835
Delaware Valley Regional Planning Commission (Burlington, Camden, and Gloucester Counties)	680	18,254

TABLE 2—2025 $PM_{2.5}$ MOTOR VEHICLE EMISSIONS BUDGETS FOR NEW JERSEY

[Tons per year]

Metropolitan planning organization	Direct $PM_{2.5}$	NO_X
North Jersey Transportation Planning Authority	1,509	25,437
Delaware Valley Regional Planning Commission (Mercer County only)	119	2,551
Delaware Valley Regional Planning Commission (Burlington, Camden, and Gloucester Counties)	363	8,003

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: June 10, 2013.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2013–14908 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0384; FRL–9826–3]

Interim Final Determination To Defer Sanctions; California; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is making an interim final determination to defer the imposition of sanctions based on a proposed approval of revisions to the South Coast Air Quality Management District's (SCAQMD) portion of the California State Implementation Plan (SIP) published elsewhere in this **Federal Register**. The revisions concern the Clean Air Act (CAA) contingency measure requirement for the 1997 annual and 24-hour national ambient air quality standards (NAAQS) for fine particulate matter ($PM_{2.5}$) in the Los Angeles-South Coast Air Basin (South Coast).

DATES: This interim final determination is effective on June 24, 2013. However, comments will be accepted until July 24, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0384, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: lo.doris@epa.gov.*

3. *Mail or deliver:* Doris Lo (Air–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Doris Lo, EPA Region IX, (415) 972–3959, *lo.doris@epa.gov.*

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

I. Background

On November 9, 2012 (76 FR 69928), we published a partial approval and partial disapproval of the South Coast 2007 AQMP and the 2007 State Strategy (collectively the ''South Coast $PM_{2.5}$ SIP''). As part of this action, EPA disapproved the contingency measure provisions in the South Coast $PM_{2.5}$ SIP as failing to meet the requirements of CAA section 172(c)(9) and 40 CFR 51.1012, which require that the SIP for each $PM_{2.5}$ nonattainment area contain contingency measures to be implemented if the area fails to make reasonable further progress or to attain the NAAQS by the applicable attainment date. See 76 FR 41562, 41578 to 41580 (July 14, 2011) and 76 FR 69928, 69947 and 69952 (November 9, 2011). This disapproval action became effective on January 9, 2012 and started a sanctions clock for imposition of offset sanctions 18 months after January 9, 2012 and highway sanctions 6 months later, pursuant to section 179 of the Clean Air Act (CAA) and our regulations at 40 CFR 52.31. As such, offset sanctions will apply on July 9, 2013 and highway sanctions will apply on January 9, 2014, unless EPA determines that the deficiency forming the basis of the disapproval has been corrected.

On November 14, 2011, the State of California submitted the ''South Coast Air Quality Management District Proposed Contingency Measures for the 2007 $PM_{2.5}$ SIP'' (dated October 2011) as a SIP revision to correct the deficiency identified in our partial disapproval action. On April 13, 2013, the SCAQMD submitted a technical clarification to the SIP revision, including updated emissions data for the year 2012. In the Proposed Rules section of today's **Federal Register,** we have proposed to approve this submittal because we believe it corrects the deficiency identified in our November 9, 2011 partial disapproval action. Based on today's proposed approval, we are taking this final rulemaking action, effective on publication, to defer the imposition of offset and highway sanctions triggered by our November 9, 2011 partial disapproval.

EPA is providing the public with an opportunity to comment on this deferral of sanctions. If comments are submitted that change our assessment described in this final determination and the proposed full approval of the SIP revision, we intend to take subsequent

final action to impose sanctions pursuant to 40 CFR 52.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks will be permanently terminated on the effective date of a final rule approval.

II. EPA Action

We are making an interim final determination to defer CAA section 179 sanctions associated with our partial disapproval of the South Coast $PM_{2.5}$ SIP based on our concurrent proposal to approve the State's SIP revision as correcting the deficiency that initiated sanctions.

Because EPA has preliminarily determined that the State has corrected the deficiency identified in EPA's partial disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date, and EPA will consider any comments received in determining whether to reverse such action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiency that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions when the State has most likely done all it can to correct the deficiency that triggered the sanctions clocks. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

III. Statutory and Executive Order Reviews

This action defers federal sanctions and imposes no additional requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action.

The administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 24, 2013. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 23, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 12, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2013–14916 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register

Vol. 78, No. 121

Monday, June 24, 2013

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2009–0359]

RIN 3150–AI72

Approval of American Society of Mechanical Engineers' Code Cases

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guides; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment three draft regulatory guides (DG), DG–1230, ''Design, Fabrication and Materials Code Case Acceptability, ASME Section III''; DG–1231, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1''; and DG–1232, ''Operation and Maintenance code Case, Acceptability, ASME OM Code.'' The subject DGs list the Code Cases that the NRC has approved for use by applicants and licensees. Code Cases provide an acceptable voluntary alternative to the mandatory American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (BPV) Code and Operation and Maintenance (OM) of nuclear power plant provisions approved by the NRC.

DATES: Submit comments by September 9, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0359. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: Wallace E. Norris, telephone: 301–251–7650, email: *Wallace.Norris@nrc.gov;* or Hector Rodriguez-Luccioni, telephone: 301–251–7685 or email: *Hector.Rodriguez-Luccioni@nrc.gov.* Both of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2009–0359 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, by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0359.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

B. Submitting Comments

Please include Docket ID NRC–2009–0359 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

The NRC is issuing for public comment three DGs in the NRC's ''Regulatory Guide'' series. In a notice of proposed rulemaking, ''Approval of American Society of Mechanical Engineers' Code Cases'' (RIN 3150–AI72; NRC–2009–0359), published elsewhere in the Proposed Rules section of today's **Federal Register** (the ''underlying proposed rule''), the NRC is proposing to incorporate by reference these three DGs into the Commission's regulations at § 50.55a of Title 10 of the *Code of Federal Regulations* (10 CFR). The underlying proposed rule would allow nuclear power plant applicants

and licensees, and applicants for standard design certifications, and standard design approvals to use the Code Cases listed in these three DGs as alternatives to requirements in those Editions and Addenda of the ASME BPV and OM Codes which the NRC has incorporated by reference into 10 CFR 50.55a.

III. Description of Draft Regulatory Guides

Code Cases provide ASME approved voluntary alternatives to the BPV and OM Codes. The DGs are incorporated by reference in 10 CFR 50.55a. The NRC-approved Code Cases provide an acceptable voluntary alternative to the mandatory ASME Code provisions, but all of the provisions of a Code Case must be used, with any identified limitations or modifications, if implemented by an applicant or licensee. The NRC approves Code Cases in the three DGs described below regarding the construction, in-service inspection, and in-service testing of nuclear power plant components.

The DG entitled, ''Design, Fabrication and Materials Code Case Acceptability, ASME Section III,'' is temporarily identified by its task number, DG–1230 (ADAMS Accession No. ML102590003). The DG–1230 is proposed Revision 36 of Regulatory Guide 1.84. Revision 35 of Regulatory Guide 1.84 was published in October 2010 (ADAMS Accession No. ML101800532).

The DG entitled, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division1,'' is temporarily identified by its task number, DG–1231 (ADAMS Accession No. ML102590004). The DG–1231 is proposed Revision 17 of Regulatory Guide 1.147. Revision 16 of Regulatory Guide 1.147 was published in October 2010 (ADAMS Accession No. ML101800536).

The DG entitled, ''Operation and Maintenance code Case, Acceptability, ASME OM Code,'' is temporarily identified by its task number, DG–1232 (ADAMS Accession No. ML102600001). The DG–1232 is proposed Revision 1 of Regulatory Guide 1.192. Revision 0 of Regulatory Guide 1.192 was published in June 2003 (ADAMS Accession No. ML030730430).

The DG–1230 lists the new and revised ASME BPV Section III, ''Rules for Construction of Nuclear Power Plant Components,'' Code Cases that the NRC has approved for use. The DG–1231 lists the new and revised ASME BPV Section XI, ''Rules for Inservice Inspection of Nuclear Power Plant Components,'' Code Cases that the NRC has approved for use. The new and revised OM Code Cases that the NRC has approved for use are listed in DG–1232, ''Operation and Maintenance Code Case Acceptability, ASME OM Code.'' For these regulatory guide revisions, the NRC reviewed the Code Cases listed in Supplements 1 through 10 to the 2007 Edition of the ASME BPV Code and the 2002 through 2006 Addenda of OM Code.

IV. Regulatory Analysis

The regulatory analysis for the underlying proposed rule also addresses these three DGs. Therefore, the NRC did not prepare a separate regulatory analysis for these DGs. The NRC is proposing to incorporate by reference these DGs into 10 CFR 50.55a, ''Codes and standards'' in of the aforementioned proposed rulemaking published elsewhere in the Proposed Rules section of today's **Federal Register.**

V. Backfitting and Issue Finality

These regulatory guides would approve for use (at the option of nuclear power plant applicants and licensees) the ASME Code Cases listed in the applicable regulatory guide. In some cases, the NRC's approval is conditioned on meeting certain requirements or prerequisites (''conditions''). The NRC is proposing to incorporate by reference these DGs, with conditions, into 10 CFR 50.55a, Codes and standards, in the aforementioned proposed rulemaking published elsewhere in the Proposed Rules section of today's **Federal Register.**

These DGs, if finalized, do not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and are not otherwise inconsistent with the issue finality provisions in 10 CFR Part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.'' The backfitting and issue finality considerations for these regulatory guides are addressed in the **Federal Register** notice for the underlying proposed rule, and introduces no new backfitting or issue finality matters not already addressed in that **Federal Register** notice. Therefore, the NRC's consideration of backfitting and issue finality matters for the underlying proposed rule also serves as the NRC's consideration of the same backfitting and issue finality matters for the issuance of these DGs.

In addition, these DGs identify NRC-approved ASME Code Cases which applicants and licensees may voluntarily utilize as way of meeting the NRC requirements in 10 CFR 50.55a. An applicant's and/or licensees' voluntary application of an approved Code Case does not constitute backfitting, inasmuch as there is no imposition of a new requirement or new position. Similarly, voluntary application of an approved Code Case by a 10 CFR Part 52 applicant or licensee does not represent NRC imposition of a requirement or action which is inconsistent with any issue finality provision in 10 CFR Part 52. Therefore, the NRC concludes that these DGs, if finalized, do not constitute backfitting as defined in 10 CFR 50.109 and are not otherwise inconsistent with the issue finality provisions in 10 CFR Part 52.

Dated at Rockville, Maryland, this 29th day of May, 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–15021 Filed 6–21–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No.: FAA–2013–0142; Notice No. 25–139]

RIN 2120–AK12

Harmonization of Airworthiness Standards—Gust and Maneuver Load Requirements

Correction

In proposed rule document 2013–12445 appearing on pages 31851–31860 in the issue of Tuesday, May 28, 2013, make the following corrections:

§ 25.341 [Corrected]

1. On page 31858, in § 25.341, in the second column, in the twelfth line from the bottom, ''$U_{\sigma\rho\varepsilon\varphi}$'' should read ''$U_{\sigma\rho\varepsilon\phi}$''.

2. On the same page, in the same section, in the same column, in the same line, ''Uσ'' should read ''U_{σ}''.

3. On the same page, in the same section, in the same column, in the tenth and third lines from the bottom, ''Uσ'' should read ''U_{σ}''.

[FR Doc. C1–2013–12445 Filed 6–21–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1002, 1010, and 1040

[Docket No. FDA–2011–N–0070]

RIN 0910–AF87

Laser Products; Proposed Amendment to Performance Standard

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or Agency) is proposing to amend the performance standard for laser products to achieve closer harmonization between the current standard and the International Electrotechnical Commission (IEC) standards for laser products and medical laser products, to reduce the economic burden on affected manufacturers, to improve the effectiveness of FDA's regulation of laser products, and to better protect and promote the public health.

DATES: Submit either electronic or written comments on the proposed rule by September 23, 2013. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by July 24, 2013 (see section VIII, the ''Paperwork Reduction Act of 1995'' section of this document). See section IV of this document for the proposed effective date of a final rule based on this proposed rule.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2011–N–0070 and/or Regulatory Information Number (RIN) 0910–AF87, by any of the following methods, except that comments on information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) (see section VIII ''Paperwork Reduction Act of 1995'' of this document):

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name, Docket No. FDA–2011–N–0070, and RIN 0910–AF87 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Information Collection Provisions

The information collection provisions of this proposed rule have been submitted to OMB for review. Interested persons are requested to fax or email comments regarding the information collection provisions to the Office of Information and Regulatory Affairs, OMB (see DATES). To ensure that comments on 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: 202–395–5806, or emailed to *oira-submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0025. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Robert J. Doyle, Office of Communication, Education, and Radiation Programs, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4672, Silver Spring, MD 20993, 301–796–5863.

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I. Background

A. Laser Standards and the Laser Industry

The Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629) transferred the provisions of the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602) from title III of the Public Health Service Act (42 U.S.C. 201 *et seq.*) to Chapter V of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 351 *et seq.*). Under the FD&C Act, FDA administers an electronic product radiation control program to protect the public health and safety. FDA also develops and administers radiation safety performance standards for electronic products, including lasers.

The Agency is proposing to amend its regulations applicable to laser products under Chapter 1, Subchapter J of Title 21 of the Code of Federal Regulations (21 CFR) because the current performance standard for laser products, last updated in 1985, is based on an outdated understanding of photobiological science and no longer reflects the current state of a technologically-evolving industry. Lasers now commonly used in the semiconductor and communications industries, for example, had not yet been invented at the time of the last update. FDA is proposing this amendment in order to make its standard consistent with current science and achieve closer harmonization with international standards already in use by the global laser industry. Moreover, this amendment to the performance standard addresses laser technology advancements and concomitant risks and benefits in order to more effectively protect and promote the public health.

The term ''laser industry'' covers manufacturers in numerous industries. Examples of products that incorporate lasers are compact disc and DVD players, fax machines, fiber optic and free-air communication peripherals, bar code scanners, cutting and welding tools, and laser speed detectors.

Through this action, the Agency intends to better harmonize its standard applicable to the laser industry with the current IEC standards (IEC 60825–1, Safety of laser products—Part 1: Equipment classification and requirements, 2d edition, 2007–03 as corrected by IEC 60825–1 (2d edition—2007), Corrigendum 1:2008–08

(identified as ''IEC 60825–1:2007'') and (IEC 60601–2–22, Medical electrical equipment—Part 2–22: Particular requirements for basic safety and essential performance of surgical, cosmetic, therapeutic and diagnostic laser equipment, Edition 3.0, 2007–05 (identified as ''IEC 60601–2–22:2007'')) by adopting various aspects of the IEC standards. By doing so, we would bring FDA's standard up to date with current science and better align FDA's standard for emission limits and hazard classes with those in international use. Currently, firms producing laser products for sale within the United States and abroad have to follow both IEC and FDA standards. Aligning such standards would mean that firms currently complying with two different sets of standards would generally need to comply with only one, except where the standards differ (e.g., collateral radiation limit). In addition, this rule results in better protection of public health because adherence to the rule will mitigate identified risks associated with laser technology.

B. Harmonization Efforts

In the Federal Register of March 24, 1999 (64 FR 14180), FDA published a proposed rule to amend the performance standard for laser products to achieve harmonization between the current standard and the IEC standards in place at that time for laser products and medical laser products (the March 1999 proposal). Since the time of that proposal, the IEC has amended its standards, and continued work on the March 1999 proposal would no longer have achieved FDA's goal of increased harmonization of requirements. In the **Federal Register** of November 26, 2004 (69 FR 68831), the Agency withdrew its March 1999 proposal.

In September 1999, FDA consulted with its advisory committee, the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC), and discussed the options for responding to the developing changes in the IEC standards. At that time, amendments to the 1993 version of IEC 60825–1 had been distributed as a Committee Draft for Vote (CDV) by the members of IEC Technical Committee 76 (TC76). The advice from TEPRSSC was for FDA to wait upon the results of that voting. The TEPRSSC recommended that if the CDV was approved by the IEC and it appeared that the amendments to the 1993 version of IEC 60825–1 would continue to progress toward adoption, FDA should modify its March 1999 proposal accordingly. The CDV was approved in October 1999. At its plenary meeting in November 1999, TC76 approved circulation for vote of the amendments as a Final Draft International Standard (FDIS). FDA then began drafting this reproposal of its amendments based on the FDIS.

In June 2000, FDA presented a status report to TEPRSSC. TEPRSSC recommended that FDA continue on this course towards increased harmonization with IEC standards regardless of the outcome of the vote on the IEC FDIS. The IEC approved the FDIS in October 2000, resulting in an amended version of the standard which, at that time, was IEC 60825–1, Ed. 1.2: 2001–08. IEC subsequently made additional amendments to IEC 60825–1, resulting in the current version, IEC 60825–1, Ed. 2:2007–03 (as corrected by Corrigendum 1: 2008–08), major portions of which are incorporated by reference in these proposed amendments. FDA kept TEPRSSC apprised of its efforts to amend the Agency's performance standard for laser products through the presentation of status reports in May 2001, May 2002, and October 2003.

In response to concerns some manufacturers expressed about having to comply with two different standards (i.e., the IEC and FDA standards), in the Federal Register of July 26, 2001 (66 FR 39049), FDA published a notice of availability of a guidance entitled, ''Laser Products—Conformance with IEC 60825–1, Am. 2 and IEC 60601–2–22; Final Guidance for Industry and FDA (Laser Notice 50) (*http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm094361.htm*).'' This notice announced the Agency's intent to amend its standard for laser products and stated that, while that process is underway, FDA would not object to industry's compliance with certain aspects of the IEC standards instead of meeting the corresponding FDA requirements. These corresponding requirements include hazard classification, measurements, performance requirements, and labeling. Laser Notice 50 was revised on June 24, 2007, to reference the revised IEC standards, IEC 60825–1, Ed. 2:2007–03 and IEC 60601–2–22, Ed. 3: 2007–05.

At this time, we are proposing specific amendments aimed at achieving closer alignment with the amended IEC standards, IEC 60825–1:2007 and IEC 60601–2–22:2007, by incorporating by reference many of the provisions found in these standards. However, FDA believes that some differences remain appropriate where FDA's standard is more precise than the IEC's. For example, FDA's current standard with respect to collateral radiation, human access, modification of laser products, and key control capability protect against other hazards not reflected in the IEC standards. These differences relate specifically to the criteria in the IEC standards for determining human access to low levels of laser radiation that are recognized to be ocular hazards only, and concern the emission limits for surveying and visual display laser products.

Because the organization and structure of the IEC standards have been considerably different from the FDA standard for the past quarter century, the proposed amendments have adopted the concepts of the IEC standards while retaining the traditional organizational structure of the FDA standard. We believe this approach is appropriate because the manufacturers who have been producing laser products for the U.S. market are accustomed to the organization and structure of the FDA standard. We seek comments on this approach, specifically whether manufacturers would prefer that the Agency organize and structure its rules to match the IEC standards.

II. Contents of the Proposed Regulation

Proposed § 1002.1 (21 CFR 1002.1) revises the entries in table 1, for laser products, to reflect the hazard classification designations used in the IEC standards.

Proposed § 1010.1 (21 CFR 1010.1), Scope, is amended to update the reference to the legal authority for these regulations and amendments.

Proposed §§ 1010.2(d) and 1010.3(b) (21 CFR 1010.2(d) and 1010.3(b)) would authorize the Director, Center for Devices and Radiological Health (CDRH), or as delegated, on the Director's own initiative or upon written application by the manufacturer, to approve alternate means of providing certification and identification information.

Proposed § 1040.5 (21 CFR 1040.5) incorporates by reference into §§ 1040.10 and 1040.11 (21 CFR 1040.10 and 1040.11) many of the provisions found in two amended IEC standards relating to laser products (i.e., IEC 60825–1:2007 and IEC 60601–2–22:2007) in order to bring the FDA standard up to date and achieve closer alignment with the IEC standards.

Proposed § 1040.10(a) retains the existing applicability stipulations and contains a note emphasizing that the standard is not being expanded to apply to light emitting diodes (LEDs) unless such products are also laser products as defined in § 1040.10(b)(4). LEDs do not typically meet the definition of laser

product because they do not exhibit light amplification by controlled stimulated emission (capable of producing a high-intensity, long-distance hazard) and FDA does not want to apply unnecessarily-stringent requirements to LED manufacturers.

FDA is proposing to amend § 1040.10(a)(3) by adding a new paragraph (iii) as a means of addressing uncertified, unreported complete laser systems that are sold as components. FDA has observed that some manufacturers and distributors are marketing what are actually complete laser systems as components or original equipment manufacturer (OEM) parts. New § 1040.10(a)(3)(iii) would require that the seller document that the purchaser meets the definition of manufacturer in § 1000.3(n) (21 CFR 1000.3(n)) or that the purchaser is excluded from applicability of the standard in accordance with § 1040.10(a)(1) or § 1040.10(a)(2). The provision also would require the seller to maintain such documentation as specified in § 1002.31 (21 CFR 1002.31). FDA is seeking comments on our proposed approach to addressing this issue.

Proposed § 1040.10(b) incorporates by reference many of the numbered definitions in clause 3 of IEC 60825–1:2007 that apply to laser products, but excludes those aspects of the definition in clause 3 that are not applicable in the context of FDA's regulation because they pertain to the purchaser's use of the laser product, an aspect generally not regulated by FDA.

Proposed § 1040.10(b)(2) provides a definition for children's toy laser products to distinguish between laser products provided for use as tools in professional or academic settings and those promoted for novelty use by children (Refs. 1, 2, and 3). In general, FDA's criterion for a children's toy laser product is a laser product when the expected use is by children under 14 years of age and the laser emission has a novelty or visual entertainment purpose. FDA's proposed standard focuses on radiation safety while the corresponding IEC standards are much broader in terms of product safety.

Proposed § 1040.10(b)(8) seeks to avoid confusion and clarifies that the terms must as used in §§ 1040.10 and 1040.11 and shall as used in §§ 1040.10 and 1040.11 and the IEC standards are equivalent in meaning and signify a requirement.

Proposed § 1040.10(b)(9) would add two sentences to the definition at subclause 3.24 of IEC 60825–1:2007, which would be incorporated by reference by proposed § 1040.10(b)(1). This language would clarify the definition of the term ''collateral radiation'' consistent with current and proposed requirements as well as longstanding FDA policy. The proposal specifies that x-radiation would also be included in the definition of ''collateral radiation,'' which is consistent with the current definition at § 1040.10(b)(12) and the requirements of both current and proposed § 1040.10(d), but is not included in subclause 3.24 of IEC 60825–1:2007. FDA remains concerned about the potential for unintentional exposure to x-radiation from laser products and this potential hazard is not addressed in the IEC subclause. For this reason, FDA wants to retain its x-ray collateral radiation accessible emission limit in 1040.10(d). In the 1992 HHS Publication FDA 86–8260—Compliance Guide for Laser Products (*http://www.fda.gov/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm095304.pdf*), FDA specified that collateral radiation includes ''x-radiation produced by a high voltage power supply, plasma glow in a discharge tube, excitation lamp light, or reradiation from a workpiece.'' Proposed § 1040.10(b)(9) includes similar language to make clear that the definition of ''collateral radiation'' includes, but is not limited to, these types of radiation. FDA believes this will inform the public and clarify the breadth of objects that can, unbeknownst to the user, absorb and then re-emit radiation.

Proposed § 1040.10(c) incorporates by reference the hazard classifications of the IEC standard IEC 60825–1:2007.

Proposed § 1040.10(d) incorporates by reference tables of accessible emission limits (AELs) for the classes of laser products identified in IEC 60825–1:2007. FDA acknowledges that the AELs of the IEC are more up to date and better represent current understanding of the biological hazards of laser radiation. However, FDA is not proposing to eliminate its more-precise emission limits for collateral radiation. FDA believes that its experience demonstrates that the collateral radiation limits provide objective criteria for safety. Proposed § 1040.10(d) retains the AELs for collateral radiation but reduces the time base for which collateral radiation is to be evaluated. FDA is adopting the IEC collateral radiation standard in whole but retaining its own additional, more precise limits for collateral x-ray radiation because this aspect is not addressed in the IEC collateral radiation standard.

Proposed § 1040.10(e) incorporates by reference the measurement conditions set forth in IEC 60825–1:2007 for use in determining the hazard classification of the laser product. However, FDA retains its requirement that tests under this section be part of the basis of the required certification of the product. FDA considers the IEC stipulation that conformance be evaluated under each and every reasonably foreseeable single failure condition to be impractical and is not proposing to adopt this stipulation. The stipulation is also unnecessary because FDA's notification and correction requirements in parts 1003 and 1004 (21 CFR parts 1003 and 1004) already provide an effective procedure for dealing with failures to comply or product radiation safety defects.

Proposed § 1040.10(f) incorporates by reference the engineering specifications provisions of clause 4 of IEC 60825–1:2007 with certain exceptions. The exceptions include retention of the existing authority in current § 1040.10(f)(6) for CDRH to approve alternate means of safety in lieu of a beam attenuator. Proposed § 1040.10(f)(4) is intended to allow more flexibility to manufacturers in providing means to preclude unintended or unauthorized use of Class 3B or 4 laser systems. The existing FDA requirement in current § 1040.10(f)(4) is for a ''key control'' that prevents ''operation of the laser'' when the key is removed. The wording of the existing FDA requirement precludes the use of momentary key switches to start the laser or, if taken very literally, the use of computer passwords. FDA believes that the critical aspects of access control are the necessity for the use of the key to permit activation of the laser and the ability to turn off the laser without a key. Because FDA had concerns that the flexibility to use a key that is not captured by the key switch mechanism or to use a computer password only addressed the starting of the laser, the proposed change also includes a requirement that there be a means for terminating operation of the laser. The title of this section has also been changed to ''security master control'' to reflect the broadening of the section.

Proposed § 1040.10(f)(12) relating to collateral radiation would not incorporate subclause 4.14.2 of IEC 60825–1:2007, but instead require that the protective housing of laser products must prevent human access to collateral radiation that exceeds the limits for collateral radiation as specified in proposed § 1040.10(d)(2). This requirement is necessary to assure the safety of laser product users because the

IEC standard allows the use of protective housing to be at the discretion of the manufacturer, rather than a safety requirement.

Proposed § 1040.10(g) incorporates by reference the labeling provisions of IEC 60825–1:2007 but allows labeling in the format specified in the American National Standards Institute (ANSI) 535 series for labels. Under this provision, either type of labeling could comply with the regulations.

Proposed § 1040.10(h)(1) includes minor conforming changes. Proposed § 1040.10(h)(2)(ii) reorganizes and clarifies what service information must be made available by manufacturers. In particular, the service information addresses procedures or adjustments which may affect any aspect of the products performance. The preambles of the proposed FDA standard published in 1974 (39 FR 32097) and the final rule published in 1975 (40 FR 32256) indicate that the Agency's main intent in issuing the service information requirement was to safeguard the persons performing service on the laser equipment from possible exposure to unsafe levels of radiation. Subsequent to the standard's issuance, some stakeholders have interpreted this provision to apply to all service instructions, often leading to inappropriate access to non-safety related service information by dealers, distributors, and other unqualified personnel. Proposed § 1040.10(h)(2)(ii) clarifies that this part of the standard is intended to address laser radiation safety during service procedures and that the decision to provide additional information is at the discretion of the manufacturer.

Proposed § 1040.11(a), which applies to medical laser products, would incorporate by reference certain pertinent clauses and subclauses from the IEC standard IEC 60601–2–22:2007 including instructions for use (subclause 201.7.9.2) and laser radiation (clause 201.10). These clauses and subclauses are more current than the existing FDA standard in addressing current technology and use conditions. FDA is not proposing to adopt other clauses and subclauses of the IEC standards with respect to medical laser products because they do not pertain to radiation safety, but rather relate to other product safety concerns.

FDA is proposing to amend § 1040.11(b) and (c) to change the highest allowed class designation from Class IIIa to Class 3R. This change is necessitated by the incorporation of the IEC classifications and measurements for classification by reference into § 1040.10(d) and (e).

FDA is also proposing to amend § 1040.11 by adding a new paragraph (d). Proposed § 1040.11(d) would restrict to Class 1 under any conditions of operation, maintenance, service, or failure, any laser products that are made or promoted as children's toys. We are proposing this amendment to ensure children will not be harmed by laser radiation under any conditions including disassembly or breakage. Because the class of the laser within the toy could be higher than the class of the toy product itself, the amendment protects children from unanticipated harmful exposure. The Consumer Product Safety Commission has requirements that address other safety concerns pertaining to children's toys (see 16 CFR part 1500).

FDA, in response to a specific request from the U.S. Department of Defense (DOD), is proposing a new § 1040.11(e) that codifies an exemption from the standard granted for the DOD in 1976 for laser products that are intended for use in combat, combat training, or that are classified in the interest of national security. This proposed amendment states that these laser products must have specific authorization from the procuring DOD authority in order for the exemption to apply. Detailed information about the implementation of this exemption is contained in the CDRH guidance document, which is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm094416.htm*.

III. Legal Authority

FDA is taking this action under the FD&C Act, as amended by the SMDA. Section 532 of the FD&C Act (21 U.S.C. 360ii) authorizes FDA to establish and administer an electronic product radiation control program to protect the public health and safety. Section 534 of the FD&C Act (21 U.S.C. 360kk) authorizes FDA by regulation to prescribe, amend, and revoke performance standards for electronic products. Section 1003(b)(2)(E) of the FD&C Act (21 U.S.C. 393(b)(2)(E)) requires FDA to ensure that public health and safety are protected from electronic product radiation. In addition, section 701(a) of the FD&C Act (21 U.S.C. 371(a)) authorizes the Agency to issue regulations for the efficient enforcement of the FD&C Act.

IV. Proposed Effective Date

FDA proposes that any final rule that issues based on this proposed rule become effective 2 years after the date of publication of the final rule in the **Federal Register**. A product is certified compliant with a particular standard as that standard exists on the Date of Manufacture, that is, the date it passed final testing including the compliance tests. Therefore, products which were completed and dated before the effective date of the amendments would not have to be recertified even if they are sold after that effective date.

V. Environmental Impact

The Agency has determined under 21 CFR 25.34(c) that this proposed 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 environment impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, Executive Order 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). This proposed rule is a significant regulatory action as defined by Executive Order 12866, and as such, it has been reviewed by OMB.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The Agency prepared an initial regulatory flexibility analysis (see section VI.G ''Impact on Small Entities'' of this document).

Section 202(a) of the Unfunded Mandates Reform Act of 1995 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 $136 million, using the most current (2010) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

A. Need for Regulation

As discussed previously in this document, the Agency is proposing to amend its regulations relating to laser products. The current FDA standard for laser products is based on an outdated understanding of photobiological science and no longer reflects the current state of a technologically evolving industry. For example, lasers now commonly used in the semiconductor and communications industries had not yet been invented at the time the standard was last updated by FDA.

Through this rulemaking, the Agency intends to better harmonize its standard with the current IEC standards (IEC 60825–1:2007 and IEC 60601–2–22:2007). By doing so, we would bring the FDA's standard up to date with current science and better align the FDA's standard for emission limits and hazard classes with those used by most countries of the world. Currently, firms producing laser products for sale within the United States and abroad have had to follow both IEC and FDA standards. Aligning such standards would mean that firms currently complying with two different sets of standards would generally need to comply with only one, except where the standards differ.

Despite the advantages of using an updated internationally-recognized safety standard, private incentives alone would be inadequate to move the laser industry to this new standard. Current regulations, based on a different standard, would prevent such a move. Some entities might choose not to adopt the new standard. Under section 534(a)(4) of the FD&C Act, a new regulation is necessary to amend FDA's existing standard. For these reasons, FDA concludes this rule is necessary.

B. Background

Lasers are given hazard classifications according to the radiation hazard they present. Class I lasers, such as DVD players, are considered to be safe under intended conditions of operation. Under the harmonized standard, these lasers would be in Class 1 (not known to be hazardous) and Class 1M (not known to be hazardous to the unaided eye).[1] Class II lasers are more hazardous, but should be safe as long as humans blink and aversion responses operate. These lasers would be either Class 2 or Class 2M (safe as long as one did not use optical instruments for viewing and one's blink and aversion responses did operate). Class IIIa lasers are more powerful, but are still considered as low risk. These lasers would be classified in class 3R under the harmonized standard. Class IIIb lasers are potentially dangerous and most would be classified as Class 3B under the harmonized standard. Some lower power lasers that are currently in Class IIIb may be able to move to lower classes under the harmonized standard. Class IV lasers, such as those used for cutting, are particularly dangerous. These would be in Class 4 under the harmonized standard.

While some firms in the laser industry would incur a burden associated with adopting a new standard, our impression from discussion with industry experts is that greater harmonization should lower the overall economic burden on the U.S. laser industry. The Agency believes increased harmonization to be consistent with the goal of adopting voluntary consensus standards, as has been articulated in OMB Circular A–119 (Ref. 4). Moreover, to the extent that the current FDA standard differs from those used by other trading partners, harmonization would reduce costs associated with trade and would indirectly benefit U.S. consumers of laser products.

In addition to bringing FDA's laser standard in line with current science and partially harmonizing with the rest of the laser industry, this action would also clarify the scope of existing laser regulations. Children's toy laser products, not currently included among ''specific purpose laser products,'' would now be covered. These could include, for example, lasers mounted on toy guns for ''aiming,'' spinning tops which project laser beams while they spin, dancing laser beams projected from a stationary column, or lasers intended for creating entertaining optical effects. We do not know the number of firms manufacturing these products but believe nearly all are located outside the United States. Laser products claiming exemption as a product intended for use in combat, combat training, or classified in the interest of national security would continue to be required to have specific authorization from the DOD. This proposed rule clarifies when the exemption applies.

The Agency believes rulemaking to be the preferred approach to moving this large, heterogeneous industry to a partially harmonized standard. As previously mentioned in this document, some laser manufacturers would incur one-time additional costs from increased harmonization, approximately $6.7 million at 7 percent and $5.9 million at 3 percent, but expected recurring benefits to laser manufacturers of $13.4 million would exceed these costs. In 2001, the Agency addressed the need for an updated standard by issuing Laser Notice 50 (Ref. 5). Laser Notice 50 declared that FDA would not object to compliance with IEC standards to satisfy certain FDA requirements while the Agency was in the process of amending its own standard. Firms following the approach described in Laser Notice 50 have been allowed to benefit from harmonization during this period of transition to a new harmonized standard. We seek comments from firms using the Laser Notice 50 approach to help us examine the costs and benefits of this regulatory action. Laser Notice 50, however, was intended only as a stopgap measure. Through this action, laser product manufacturers will benefit from increased regulatory certainty. Also, safety inspectors examining these products will be able to work from far more similar standards.

By moving to a safety standard more attuned to current science, the Agency expects this action to benefit public health. There is a risk of serious injury associated with the use of lasers. High-powered lasers have the potential to burn human tissue, but nearly all of the reported injuries from the use of lasers have been retinal (Ref. 6, p. 466). A study published in 2000 found over 100 reports of laser eye injuries over the course of 35 years (1965–2000) in the medical literature, but noted many more injuries went unreported because of confidentiality requirements associated with the legal proceedings and the sensitivity of military operations (Ref. 6, p. 465). Another study estimated that there are fewer than 15 retinal injuries each year worldwide from industrial and military lasers (Ref. 7, p. 1211). Accidents involving higher-powered lasers have resulted in permanent loss of visual acuity and even blindness. Injuries from lower powered lasers have been associated with temporary disturbances in vision. While these eye injuries are not permanent, the temporary loss of vision can result in serious accidents (Refs. 14, 15). Our understanding of potential sources of laser injuries has evolved significantly over time because of developments in the science. FDA believes its standard should be aligned with the most recent valid science in order to minimize risk of injury. Scientific studies have identified radiation safety issues associated with lasers that were previously unknown such as repetitive pulse output and additional spectral regions where photochemical hazards must be considered. This regulation

[1] A laser could be in Class I(1) because it emits very little radiation or because the radiation is fully contained, as in a laser printer.

accounts for variables that were not addressed by the previous regulation.

C. Affected Entities

The proposed rule would directly affect establishments that manufacture laser products. In general, all products incorporating a laser or laser system are subject to the current performance standard. Laser products that are also medical devices are also subject to the Agency's regulations pertaining to medical devices. Manufacturers that market products internationally must also comply with internationally-recognized standards, such as IEC 60825–1:2007 and 60601–2–22:2007.

Because a wide variety of products contain lasers, the term ''laser industry'' actually refers to manufacturers in numerous industries. Examples of products that incorporate lasers are compact disc and DVD players, fax machines, fiber optic and free-air communication peripherals, bar code scanners, cutting and welding tools, and laser speed detectors. For the year 2006, worldwide revenues for the laser industry were approximately $5.6 billion (Ref. 8). In 1997, U.S. sales accounted for approximately 60 percent of industry revenues according to the January 1998 edition of the trade publication Laser Focus World, the last edition to report that statistic. Assuming that share still holds, the domestic laser industry has annual sales of approximately $3.4 billion. Global revenues increased slightly between 2005 and 2006.

The Agency contracted with the Eastern Research Group (ERG), Inc. to estimate the economic impact of partial FDA harmonization with these two IEC standards. ERG's report, ''Technical Quality and Economic Implications of International Harmonization of Laser Performance Standards—An Update'' (ERG Report) (Ref. 9) is summarized here and on file with the Division of Dockets Management as well as *http://www.regulations.gov* (see **ADDRESSES**).

ERG estimates that there are 1,283 U.S. manufacturers of laser products spanning 18 North American Industrial Classification System (NAICS) classifications. All of these firms would be affected by this proposed rule because all are assumed to produce for U.S. consumers and, therefore, required to meet the FDA standard. Those firms producing only for U.S. consumers (875 of the 1,283 firms according to ERG) would bear costs because they would need to adopt a new set of standards. Firms producing for both U.S. consumers and for export (408 of the 1,283 firms) would benefit from this proposed rule because they would generally need to comply with only one standard instead of two sets, except where the standards differ. Based on our experience regulating and inspecting these exporting firms and our understanding that the current IEC standards and this proposal that would incorporate the IEC standards by reference are similar, we assume for this analysis that exporting firms are already in compliance with the IEC standards. We recognize, however, that this is a critical assumption and welcome comments from the public. The Agency does not know of any U.S. firms producing solely for export.

D. Costs of the Proposed Regulation

The costs of complying with this proposed rule would be the costs associated with elements of the harmonized standard that are not in the existing standard. Because exporting firms are presumed to already be in compliance with the IEC standards, only firms not currently producing for export would be expected to incur these costs. The ERG Report identifies four cost-generating elements: Protective housing labeling, repetitive pulse correction factor, testing with 50 millimeters (mm) aperture, and compliance testing for de minimis changes. We also recognize that there may be some costs associated with IEC standards documentation, documentation requirements for manufacturers of some laser products that are intended as components, and DOD exemption documentation. We do not rule out potential additional training costs associated with learning the new standard, but believe estimated costs would be so minor that they would be difficult to reliably quantify.

1. Protective Housing Labeling

Section 1040.10(d)(2) of the proposed rule changes the wording on the label that must appear on all housings that prevent access to laser light. The cost of making this change would depend on the labor associated with the change, any IT system changes required, and on the cost of creating and printing new labels. The ERG Report noted that manufacturers of consumer products have shorter product cycles than manufacturers of industrial products and that many consumer product manufacturers would be able to make the label change in the ordinary cycle of production. This analysis assumes similarity between the manufacturers of consumer products and manufacturers of laser products. Nevertheless, because of the difficulty in identifying consumer products among the various NAICS classifications, ERG applied the protective housing label costs to all NAICS industries affected (Ref. 9, p. 42). Because firms in classification 334119 (other computer peripheral equipment manufacturing) are believed to export, they are assumed to be unaffected. According to the ERG Report, a label change would cost an estimated $4,966, or approximately $5,000, per product. The costs roughly break down as approximately $4,300 for an engineering change order, including $400 in label design and tooling expenses, plus $600 in label inventory losses.

The total cost of this provision would be a function of the number of affected products. Firms with a single product would face a cost of about $5,000. ERG estimates that the 875 non-exporting firms affected by this provision of the proposed rule produce approximately 3,100 products, resulting in a cost of $15.4 million. Because the ERG analysis was completed in 2005, we adjust for inflation using the most current (2009) Implicit Price Deflator for the Gross Domestic Product. Adjusting for inflation of 9.77 percent, the estimated cost is $16.9 million. The annualized cost of this provision, at a 7 percent discount rate over a 10-year horizon is $2.2 million. At 3 percent, the annualized cost is $1.8 million (Ref. 9, Table 3–5, p. 53). Adjusting for inflation, these amounts are $2.4 million and $2.0 million.

This estimate may substantially overstate the cost of compliance because it does not consider product labeling that could be updated during the 2-year implementation period. If the labeling for some products would normally be updated every 6 years, a sizable fraction of these products would be able to revise the labeling as part of the normal product cycle during the 2-year implementation period. Because the Agency does not know the lifespan of these labels and the ERG Report does not cover this issue, we have not attempted to calculate the fraction that would be updated in a 2-year period.

2. Repetitive Pulse Correction Factor

The harmonized standard for laser products includes a new technical specification for calculating the power of scanning or repetitively pulsed laser products. Pulse repetition potentially increases the risk of injury and was not a standard feature of laser products when the current standard was issued (Ref. 16). Because of this new technical specification, certain products might be reclassified as presenting a greater threat to safety and may require more safety-related features. Due to the increased granularity of the classifications in the IEC standards as compared to FDA's existing standard, some Class I

products, such as certain laser range finders or laser pointers, might be reclassified as Class 1M or 3R. Some Class II or IIIa products might be reclassified as Class 3B. The impact of this provision would be felt among firms in NAICS classification 334519 (other measuring and controlling device manufacturing), where, according to Table 2–5 of the ERG Report, there are 71 affected firms.

Under this proposal, Class 3B laser products require more safety-related features than products in Class I, II, or IIIa. Such safety features would include an indicator light at each aperture to show when the laser is operating, a key or password lock, a connector to facilitate remote interlocking, and a beam attenuator. The increase in safety requirements may also lead to other changes, such as the revision of safety manuals or the use of more elaborate installation procedures. Manufacturer costs associated with this provision would include both one-time engineering costs relating to changes to design and documentation, plus recurring production costs for the inclusion of these safety-related features in the manufacture of each unit.

To comply with this provision, manufacturers faced with reclassification to a more stringent class would face the costs of redesigning the product. In some cases, however, a manufacturer might be able to make adjustments to the product, itself, to stay in a lower class. For example, if power output is a factor in moving a product to a more stringent class, the manufacturer might avoid the move if it can lower the power of the unit without harming the functionality of the product.

The one-time cost for product design to incorporate the additional safety features would be between $25,000 and $100,000 per product (Ref. 9, p. 43). These costs would include labor and materials for redesign, purchasing, establishing manufacturing and quality control procedures, and product documentation changes. The range for these costs reflects that the required safety changes can vary from being fairly straightforward to being substantially more complex. The average expected one-time cost of compliance is $55,400 per affected product, as derived in Table 3–1 of the ERG report.[2] Over all affected products in NAICS classification 334519, the estimated one-time cost of this provision is $6.3 million. Adjusting for inflation of 9.77 percent, the estimated cost is $6.9 million. The 10-year annualized cost at a 7 percent discount rate is $892,000. At 3 percent, the annualized cost is $734,000 (Ref. 9, Table 3–5, p. 54). Adjusting for inflation, these amounts are $979,000 and $806,000.

In addition to the one-time costs associated with making these changes, there would also be recurring costs for the increased material and labor used in manufacturing. Based on information in the ERG Report from discussions with industry experts, the Agency estimates that these additional components would cost approximately $5 per unit and would require an additional 0.1 hours to install for each unit. Assuming a 1,000 unit production run for a typical product affected by this rule, ERG has estimated that the total recurring costs per product for this aspect of the proposed rule to be $7,004 per product (Ref. 9, p. 43). Many laser product manufacturers have significantly higher production volumes, but an ERG analysis of U.S. International Trade Commission export statistics for the affected NAICS codes supports this lower estimate. Moreover, companies with higher production volumes are likely to be exporters already familiar with IEC standards and manufacturers of Class I devices which would not be affected by this proposal. Nevertheless, estimated recurring costs for a hypothetical affected company with a production volume of 100,000 units would be 100 times as great, or $700,000 per product. We therefore request comment on this assumption.

Over the estimated 113 affected products in NAICS classification 334519, the cost would be $792,000. Adjusting for 9.77 percent inflation, the cost is $870,000. Adding this to the annualized one-time cost, the annualized total cost of this provision at a 7 percent discount rate over 10 years is $1.7 million. At a 3 percent discount rate, the annualized cost is $1.5 million. Adjusting for inflation, these amounts are $1.8 million and $1.7 million.

3. Testing With 50 mm Aperture

Under the proposed rule, the power of many visible and near infrared lasers would be tested using an aperture of 50 mm. Previous test methods used a smaller aperture and did not capture some power from lasers with a wide beam width. According to the ERG Report, most laser products have a beam width smaller than 50 mm and would not be affected by this provision. But a few products with diverging or expanded beam diameters may be affected. Examples of potentially affected products with wide beam widths are laser speed guns and distance-measuring products used in construction.

With the larger test aperture leading to more measured power, some products may move into more stringent class designations. As with the previously discussed repetitive pulse correction factor, a manufacturer with a product that has moved to a more stringent class could either redesign the product to meet the stricter requirements or lower the product's power. For the purposes of this analysis, we assume the manufacturer redesigns the product. The Agency assumes the cost of the provision to be the same as that in the repetitive pulse correction factor: $55,400 for one-time product design and a little over $7,000 for increases in the cost of production.

In its report, ERG assumed this provision would affect products manufactured by firms in NAICS classifications 334511 (search, detection, navigation, guidance, aeronautical, and nautical system and instrument manufacturing) and 334519 (other measuring and controlling device manufacturing). ERG estimated there to be 11 affected firms with 33 affected products in classification 334511 and 71 affected firms with 113 affected products in classification 3345193.[3]

The estimated one-time cost for classification 334511 for this provision is approximately $1.8 million ($55,400 per product × 33 affected products). The estimated recurring costs are approximately $229,000 ($7,000 per product × 33 products). The estimated one-time cost for classification 334519 is $6.3 million ($55,400 per product × 113 products) and the recurring costs are $792,000 ($7,000 per product × 113 products).

For both classifications combined, the one-time cost for this provision is approximately $8.1 million ($1.8 million + $6.3 million), which is $1.1 million when annualized at 7 percent and $946,000 when annualized at 3 percent. The recurring cost is approximately $1.0 million ($229,000 + $792,000). The estimated total cost of this provision, annualized over 10 years at 7 percent is $2.2 million, and at 3 percent, the cost is $2.0 million. Adjusting for inflation of 9.77 percent, the one-time cost is $8.9 million, and the recurring cost is $1.1 million. Annualized over 10 years at 7 percent,

[2] The estimate assumes 160 hours of managerial time at a rate of $53.28 per hour, 1,200 hours of professional staff time at $38.47 per hour, and 40 hours of clerical time at $18.08 per hour.

[3] See ERG report, Tables 3–3 and 3–5. Table 3–5 does not explicitly list the number of affected products, but this can be deducted from the total costs in the table on p. 55 and the per-device cost as calculated in table 3–1.

the inflation-adjusted cost is $2.4 million, and at 3 percent the cost is $2.2 million.

4. Compliance Reporting for de Minimis Changes

Changes in laser products must be reported to FDA under both the current regulation and the proposed regulation. As noted earlier, some firms would be required to change their protective housing labeling. When a firm changes the labeling of a product, it must submit to FDA a report of the change and a copy of the new label.

In addition to the costs associated with the actual label change, a firm would also incur the costs to compile and submit the information for the change notice to FDA. ERG estimates this cost to be about $100 per product (Ref. 9, p. 45). This estimate potentially overstates the impact, as many firms would be able to notify FDA of product changes through the annual report process and would not need to submit an additional notice.

As noted previously in this document, the 875 non-exporting firms affected by the label change provision (and, therefore, this provision) are responsible for approximately 3,100 laser products. ERG estimates the one-time cost of these notifications to be $334,000, which is $47,000 when annualized at 7 percent and $39,000 when annualized at 3 percent (Ref. 9, Table 3–5, p. 56). Adjusted for inflation, the one-time cost is $366,000, which is $52,000 annualized at 7 percent and $43,000 annualized at 3 percent.

5. IEC Standards Documentation

In addition to the issues addressed in the ERG Report, the Agency recognizes that some laser manufacturers may need to purchase an official set of IEC Standards.[4] Document IEC 60825–1, Edition 2, March 2007, costs CHF 255 (Ref. 10).[5] Document IEC 60601–2–22, Edition 3.0, May 2007, costs CHF 135. Thus, these IEC standards can be purchased for CHF 390, which is about $350. Assuming all 875 laser manufacturing firms not currently producing for export would purchase these documents, the total one-time cost would be $289,500. When annualized at 7 percent over 10 years this cost is $41,200, and when annualized at 3 percent, it is $33,900.

[4] The standards are sold through the IEC Web site (*http://www.iec.ch*).

[5] Swiss Francs are represented by the symbol CHF. 1 Swiss Franc = 0.9342 U.S. Dollars. Per midrates 21:20 UTC, April 21, 2010.

6. Manufacturer Status Documentation

Regulatory requirements for those selling components or OEM parts to manufacturers are less burdensome than are the requirements for those selling complete laser systems to consumers. Under current regulations, components and OEM parts may only be sold to manufacturers. New § 1040.10(a)(3)(iii) would reinforce these provisions by requiring those selling components or OEM parts to document that the purchaser meets the definition of manufacturer in § 1000.3(n) or that the purchaser is excluded from the standard in accordance with § 1040.10(a)(1) or § 1040.10(a)(2). The provision would also require the seller to maintain documentation as specified in § 1002.31.

ERG did not analyze this provision in their report. The regulation would require those selling components to maintain records showing that their customers are manufacturers. The Agency believes sellers could generally comply with this provision by accumulating information gathered in the course of doing business. Additional information required to verify that a particular purchaser was a manufacturer could be obtained through email or fax. The Agency assumes that it would take, on average, approximately 10 minutes, or 0.17 hours for a component seller to obtain and file information on each customer. The ERG Report assumes an average wage rate for clerical and administrative staff of $18.08 per hour, so the cost per record would be $3 (Ref. 9, p. 13).

FDA does not know how many manufacturers or suppliers are purchasers from each manufacturer with a registered component product. According to the FDA product registration database, there were 574 component product registrations from 155 component manufacturers filed during the 11-year period from 1997 to 2007, an annual average of 52 product registrations (574 ÷ 11) from 14 manufacturers (155 ÷ 11). Assuming each accession number in the registration database represents a unique purchaser who is a manufacturer or supplier, there would be 52 new records each year. At $3 per record and adjusting for 9.77 percent inflation, the annual cost of this provision would be $172. We invite comment on these estimates and the extent to which this provision would prevent manufacturers from improperly shifting the responsibility for certifying, reporting, or registering products to end users.

7. Department of Defense Exemption

The FDA laser safety standard may not be appropriate for laser products used in combat, combat training, or other national security situations. Visible or audible emission indicators and highly visible warning labels, for example, may be inappropriate when concealment is vital. For this reason, laser products procured for combat, combat training, or classified for reasons of national security are exempted by FDA from the laser safety standard (Ref. 11).

Nevertheless, FDA is concerned that the lack of clear regulatory language hampers the effectiveness of this exemption. FDA has become aware of manufacturers claiming to possess a DOD exemption when they have not followed the proper procedures and obtained the required exemption letter. FDA is also concerned that the manufacturer may attempt to import laser products without an exemption letter, resulting in the products being detained because there is no proof that the products have been exempted by the laser performance standard. FDA believes incorporating this exemption into this Agency's regulations would make it more effective.

FDA estimates 25 manufacturers per year would obtain exemption letters from the DOD. An unknown number of manufacturers are currently obtaining exemption letters from the DOD, as required in current guidance. Assuming it takes 5 minutes to request the exemption letter and then 10 minutes to file it, each exemption letter would require 15 minutes of time from a clerical worker. The ERG Report uses an average wage rate for clerical and administrative staff of $18.08 per hour, so the cost per exemption letter would be $4.50. With an upper bound of 25 letters each year and adjusting for 9.77 percent inflation, the annual cost of this provision would be $123. If each of these manufacturers are already obtaining exemption letters as required in current guidance, there would be no additional cost incurred by these manufacturers.

8. Total Costs of the Regulation

Table 1 of this document summarizes and totals the costs of the regulation. The total one-time costs of this proposed regulation are estimated to be $33.4 million. Annualized over 10 years at 7 percent, this cost is $4.7 million; at 3 percent the annualized cost is $3.9 million (Ref. 9, Table 3–5, p. 57).[6] The

[6] These figures differ slightly from those in the ERG Report (Ref. 6) because of the inclusion of the cost of purchasing copies of the IEC standards.

estimated total recurring costs of the regulation are $2.0 million. The estimated total cost of this regulation annualized over 10 years at 7 percent is $6.7 million. When annualized at 3 percent, the cost is $5.9 million.

TABLE 1—TOTAL COST OF THE REGULATION

Issue	One-time (millions)	Recurring (millions)
Protective Housing Labeling	$16.9	
Repetitive Pulse Correction Factor	6.9	$0.9
Testing with 50 mm Aperture	8.9	1.1
Reporting for de Minimis Changes	0.4	
IEC Standards Documentation	0.3	
Validation of Manufacturer Status		0.0
Department of Defense Exemption		0.0
Sum All Provisions	33.4	2.0
Annualized Costs at 7 percent	4.7	2.0
Annualized Costs at 3 percent	3.9	2.0
Total Annualized Costs at 7 percent		6.7
Total Annualized Costs at 3 percent		5.9

This cost estimate is based on available data, but may overstate certain items, especially those associated with changing the wording of the label appearing on protective housings. This is estimated to be the most expensive provision, but, as previously stated, some firms would already be revising their labels during the 2-year compliance period and would bear a lesser burden. We seek comments on our estimates, including whether this proposed rule triggers costs for the 408 firms which produce for both U.S. consumers and for export.

E. Benefits of the Proposed Regulation

This proposed rule would be beneficial in a number of ways. The proposed rule would align safety standards to the current scientific knowledge and thinking on laser safety and update rules that were established before many current laser products existed. In doing so, we expect there to be benefits to public health. The benefits associated with improved laser safety, such as the reduced risk of retinal injury, have been described qualitatively earlier in this document. Such benefits, however, are difficult to quantify and, therefore, are not included here.

Taking steps towards the harmonization of laser safety standards potentially benefits consumers through lower prices. Requiring foreign laser manufacturers to maintain completely separate safety standards for the U.S. market increases the cost of doing business. Reducing such divergences encourages trade, increases social welfare, and benefits U.S. consumers. These benefits are difficult to quantify and are not included in this analysis. Nevertheless, we have estimated the U.S. market for laser products to be $3.4 billion. As summarized above, the estimated total annualized costs of this proposed rule are $6.7 million. Gains to consumers of at least 0.2 percent of sales would be enough to outweigh the estimated costs of the proposed rule.

In this analysis, we limit the quantified benefits to the savings that would be expected to be realized by laser manufacturers currently exporting and in compliance with IEC standards. Under this proposed rule, manufacturers currently complying with two standards would generally only need to comply with a single harmonized standard, except where the standards differ. Under harmonization, these firms would be partially relieved of a burden. The Agency believes these benefits could be substantial.

In its report, ERG noted that most industry representatives believed harmonization would be beneficial to the U.S. laser product industry (Ref. 9, p. 12). Yet, ERG found it difficult to accurately quantify the expected savings from this proposed rule and did not do so in their report. In response to a prior proposed rulemaking, the Agency received several comments from industry encouraging harmonization of laser safety requirements, citing potential administrative savings from the elimination of multiple regulatory requirements (Ref. 12). We attempt to quantify these administrative benefits from harmonization of laser safety standards, but due to the uncertainty in our methodology, we request comment on our approach.

This proposed rule would reduce the expenditures needed to comply with two sets of safety standards. This burden would include costs associated with physically testing products to satisfy existing FDA and IEC standards. Firms currently producing multiple variations of products to comply with both sets of standards would save on manufacturing costs. In addition, under the proposed rule, if finalized, all class IIa products and certain class II products will move to less stringent class 1 or class 1M laser classifications, thereby reducing the costs of meeting safety requirements. There also would be cost savings associated with the reduction of administrative elements of compliance, such as the creation of duplicate labeling and documentation.

According to the ERG report, 408 of the 1,283 U.S. firms manufacturing laser products are exporters that currently comply with multiple standards. The 875 non-exporters manufacture 3,100 products, or about 3.5 products per firm. We do not have information on the numbers of products for exporting firms, but we assume that firms serving a larger customer base would in general have larger product assortments. ERG assumed that small firms have, on average, a single product, but larger firms have potentially dozens (Ref. 9, Table 2–6).[7] As exporters serve a larger potential market, we assume they are more likely to be larger, and, for the purposes of this analysis, to have an average of 5 products. As we lack hard data to support this assumption, we request comment on this estimate. Assuming that the 408 exporting manufacturers have on average 5 products each results in an estimated 2,000 affected products.

As we previously stated in this document, a manufacturer producing for both U.S. and foreign consumers currently must comply with dual standards. Compliance with multiple standards might involve the production

[7] Includes estimates for the average number of products per firm for each affected NAICS.

of multiple versions of the same product. Such costs would be incurred on an annual basis.

According to ERG's work on compliance costs, the burden of modifying a product to comply with safety regulations is estimated to be approximately $7,000 (Ref. 9, Table 3–1 and p. 43). This estimate assumes small production runs typically faced by non-exporting manufacturers. Exporting manufacturers, according to the ERG report, would generally have larger production runs and the estimate would be higher (Ref. 9, p. 43). So while we use a recurring $7,000 per product as an acceptable proxy for the additional cost of production to comply with multiple standards, we believe this may be an underestimate.

Because of uncertainty, we also consider a scenario in which we assume the administrative burden of complying with an extra set of standards to be equivalent to designing a new label each year. As discussed previously in this analysis (see section VI.D.1 of this document), ERG has estimated that a labeling change would cost the manufacturer approximately $5,000. Thus, reducing the expenditures needed to comply with two sets of safety standards would save manufacturers $5,000 per product per year. Of course, we realize some firms may be producing drastically different product versions to comply with both IEC and current FDA standards. In those instances, firms would see substantially higher benefits from harmonization.

Assuming 2,000 products are manufactured by exporters, the estimated annual benefit would be $14.3 million ($7,004 per product × 2,040 products). These are annual benefits with no one-time impacts. Using our lower estimate of $5,000 per product per year, our annual benefits would be $10.1 million ($4,966 × 2,040). The total quantified annual benefits of this proposed rule fall within a range from $10.1 million to $14.3 million. For the purposes of our analysis, we use the midpoint of this range, which is $12.2 million. Adjusting for 9.77 percent inflation, the annual benefits would be $13.4 million.

As previously noted in this document, we do not attempt to quantify the public health benefits of this proposed rule. Harmonization would also be expected to benefit consumers by reducing the cost of products sold domestically, thus facilitating trade.

We also believe there would be difficult-to-quantify benefits to having a globally recognized scientific standard and to ensuring that manufacturers selling finished laser products to end users were properly certifying and/or registering their products.

F. Summary of Costs and Benefits

The total costs and benefits are summarized in Table 2 of this document. The estimated total cost of this proposed rule, annualized at 7 percent, is approximately $6.7 million. The annualized cost at 3 percent is $5.9 million. The estimated total annualized benefit of this proposed rule is approximately $13.4 million.

The annualized benefits exceed the annualized costs by approximately $6.7 million at a 7 percent discount rate and $7.5 million at a 3 percent discount rate. Moreover, as stated earlier in the report, we may have overestimated costs and underestimated benefits. Thus, net benefits, annualized at 7 percent, may be larger than $5.9 million (and larger than $6.7 million annualized at 3 percent).

TABLE 2—SUMMARY OF COSTS AND BENEFITS

Impact	Total (millions)
Total Annualized Costs at 7 percent	$6.7
Total Annualized Costs at 3 percent	5.9
Total Annualized Benefits	13.4
Net Benefits (Costs) at 7 percent	6.7
Net Benefits (Costs) at 3 percent	7.5

G. Impact on Small Entities

FDA recognizes that many of the manufacturers that would be required to modify their products to comply with the harmonized standard may be small entities with limited resources. As a result, the Agency has prepared this initial Regulatory Flexibility Analysis and requests public comment regarding the economic impact of the proposed rule on small entities.

ERG estimates 875 firms may incur increased costs as a result of one or more of the provisions in this proposed rule. Of these affected firms, 811, or 93 percent are small entities as defined by the criteria established by the Small Business Administration (SBA) and listed in Table 4–1 of the ERG Report (Ref. 9, p. 57). Under these criteria, firms are small entities if they have fewer than a certain critical number of employees. Depending on the relevant NAICS classification, this critical number of employees could be 500, 750, or 1,000 employees. ERG has extended this to estimate impacts on very small firms with fewer than 20 employees.

Table 4–2 of the ERG Report provides a breakdown of the estimated compliance costs as a percentage of firm revenues for each of the affected NAICS classes, by firm size.[8] ERG finds no NAICS category for which this percentage exceeds the threshold of three to five percent typically used for unequivocally establishing the existence of a significant impact (Ref. 13). ERG does identify two NAICS classifications with subclasses of small firms facing burdens of greater than 1 percent of sales. ERG small firms (defined by ERG as having fewer than 20 employees) in NAICS classification 334511 (Search, Detection, Navigation, Guidance, and Nautical System & Instrument Manufacturing) face an estimated burden of 1.7 percent of sales (annualizing at a 7 percent discount rate). ERG small firms (fewer than 20 employees) in classification 334519 (Other Measuring and Controlling Device Manufacturing) face an estimated burden of 1.4 percent of sales. The burden on firms in that class with fewer than 500 employees (SBA small) is 1 percent. No other NAICS class has a subclass of firms facing a burden greater than 0.15 percent of sales. Thus, no small entities face significant impacts in any of the other NAICS classifications.

The two classifications mentioned previously in this document, 334511 and 334519, are affected by the provisions associated with the repetitive pulse correction factor and testing with the 50 mm aperture. ERG estimates there to be 6 affected firms with fewer than 20 employees in NAICS 334511 and 44 affected firms with fewer than 20 employees in class 334519 (Ref. 9, Table 4–2). Firms in classification 334511 with fewer than 750 employees and firms in classification 334519 with fewer than 500 employees are defined by the SBA to be small. Thus, all 50 firms would meet the SBA criteria for small.

The Agency finds it highly unlikely that all 50 firms necessarily face a significant burden from this proposed rule, but we cannot rule out the possibility that some small subset of the 50 might face a significant impact. The Agency expects the impact among these firms to be uneven and that the harmonized standard may have a significant impact on a few of them.

Some of these affected firms, for example, may need to make engineering changes to comply with the harmonized

[8] The ERG analysis does not include the cost of obtaining a copy of the IEC standards. As the estimated $350 cost would be a fraction of a percent of revenues, the impact would be negligible.

standard. These changes may be minor or, as stated in the cost section of this document, may be more substantial and cost up to $100,000 if the difference between the standards is large. Based on our understanding of the requirements imposed by this proposed rule and the state of the industry in the relevant NAICS classes, we conclude that few, if any, firms would be faced with such a burden. The Agency does not believe a substantial number of firms would be faced with a significant impact.

We identified and assessed regulatory options to mitigate impacts on small entities. We considered allowing manufacturers to continue to comply with the current FDA standard indefinitely, thus avoiding burdens altogether. We also considered leaving the harmonized standard as optional, essentially extending the provisions of Laser Notice 50 indefinitely. These alternatives would both be inconsistent with the goal of establishing a more uniform recognized safety standard for laser products. Multiple existing standards or indefinite compliance periods could increase confusion as to proper safety standards. Indefinite compliance periods with multiple standards may dissuade risk-averse firms from abandoning the current FDA standard. In an attempt to strike a balance between the need for a recognized safety standard while minimizing the burdens on affected entities, the Agency would allow for a 2-year effective date to minimize the burden on affected entities.

The Agency also analyzed modifying the harmonized standard for certain laser classes to bring such firms into compliance. That is, the Agency considered adopting certain modifications to the IEC standards so as not to move firms out of compliance due to the repetitive pulse correction factor or the 50 mm testing aperture. Such a move would have eliminated the costs associated with these specific provisions. This alternative would have been inconsistent with the objective of establishing a safety standard that is harmonized with current science and internationally-recognized standards. Moreover, the benefits associated with this alternative would have likely been minimal, because few, if any, firms would face large costs in the shift to a harmonized standard.

The Agency believes that the provisions of the proposed rule, combined with a 2 year effective date that will give industry ample time to make any necessary changes without undue burden, are the best approach to establishing a harmonized standard.

VII. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive Order requires agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' Federal law includes an express preemption provision at section 542 of the FD&C Act (21 U.S.C. 360ss) that preempts the States from establishing, or continuing in effect, any standard with respect to an electronic product which is applicable to the same aspect of product performance as a Federal standard prescribed pursuant to section 534 of the FD&C Act (21 U.S.C. 360kk) and which is not identical to the Federal standard. See *Medtronic* v. *Lohr,* 518 U.S. 470 (1996); *Riegel* v. *Medtronic,* Inc., 128 S. Ct. 999 (2008). If this proposed rule is made final, the final rule would prescribe a Federal standard pursuant to section 534 of the FD&C Act. However, section 542 of the FD&C Act does not ''prevent the Federal Government or the government of any State or political subdivision thereof from establishing a requirement with respect to emission of radiation from electronic products procured for its own use if such requirement imposes a more restrictive standard than that required to comply with the otherwise applicable Federal standard.'' 21 U.S.C. 360ss.

VIII. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). A description of these provisions is given in the *Description* section of this document with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each 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.

Title: Proposed Amendment to Laser Product Performance Standard.

Description: Sections 532 through 542 of the FD&C Act (21 U.S.C. 360ii through 360ss) direct the Secretary of the Department of Health and Human Services (the Secretary) to establish and carry out an electronic product radiation control program to protect the public from unnecessary radiation from electronic products.

The Agency is proposing to amend its regulation of laser products in § 1040.11 by adding a new paragraph (e) which requires that manufacturers of laser products intended for DOD use who wish to have the exemption from the performance standard that was granted to DOD apply to their specific products must obtain a letter from the DOD procuring Agency that applies the exemption to the products. The exemption letter must be obtained prior to sale and must be retained for subsequent sales to any DOD Agency.

The Agency is proposing to amend its regulation of laser products in § 1040.10 by adding new paragraph (a)(3)(iii) that requires manufacturers of laser product components or replacement parts to maintain a record that identifies the purchaser as the party that will certify or register a host product that contains the manufacturer's component or replacement part, or identifies the purchaser as a supplier who sells the manufacturer's registered laser component or replacement part. Records do not need to identify purchasers who acquire the product as a replacement part for a certified product for purposes other than resale.

Description of Respondents: Manufacturers and importers of laser products.

FDA estimates the burden of this information collection as follows:

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
1040.11(e)	25	1	25	0.08 (5 minutes)	2	$2.00

[1] There are no capital costs associated with this collection of information.

TABLE 4—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours	Total operating and maintenance costs
1040.10(a)(3)(iii)	14	4	56	0.17 (10 minutes)	10	$2.00
1040.11(e)	25	1	25	0.17 (10 minutes)	4	$2.00
Total Hours						14

[1] There are no capital costs associated with this collection of information.

Reporting Burden: For § 1040.11(e) we estimate 25 respondents would need to collect information once per year for a total of 25 correspondences. Manufacturers would request information from DOD and this process is estimated to take 5 minutes (.08 hours) per letter, for a total of 2 hours.

Recordkeeping Burden: For § 1040.10(a)(3)(iii) we estimate 14 respondents would generate 4 records per year for a total of 56 records. Under the existing regulation at § 1002.31, we require records to be kept for 5 years. Since many companies correspond regularly with customers as a matter of business practice, the recordkeeping burden for maintaining a file of documentation obtained from customers (correspondence, cancelled check, purchase agreement) over the course of 5 years are considered usual and customary, although FDA requests comment on whether this recordkeeping requirement, including its duration, continues to be appropriate. Documentation obtained actively (electronic copy of company Web site or brochure, proof of business license, signed agreement, etc.) could be obtained via fax or email attachment. This task is expected to be performed by clerical staff, who prepare a letter, email or fax requesting the information from the manufacturer or supplier, and respondent manufacturer or supplier clerical staff, who prepare a response that verifies the purchaser is a bona fide business that will certify or register the component or replacement part as a manufacturer or sell the part as a supplier. This process is estimated to take 10 minutes (0.17 hours) per record to scan and email or photocopy and mail documentation, for a total of 10 hours annually.

For § 1040.11(e) we estimate 25 respondents would need to collect information once per year for a total of 25 records. Manufacturers would file the information received from DOD and this process is estimated to take 10 minutes (0.17 hours) per record, for a total of 4 hours.

The operating and maintenance costs associated with this information collection are based upon correspondence costs (postage) for non-email communications for 20 percent of respondents (8), estimated at $0.50 per correspondence for a total of $4.00.

Time estimates are based on experience performing similar activities in FDA's Division of Mammography Quality and Radiation Programs, CDRH.

To ensure that comments on 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 title ''Proposed Amendment to Laser Product Performance Standard.''

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3407(d)), the Agency has submitted the information collection provisions of this proposed rule to OMB for review. These requirements will not be effective until FDA obtains OMB approval. FDA will publish a notice concerning OMB approval of these requirements in the **Federal Register**.

This proposed rule also refers to currently approved collections of information found in FDA regulations. The collections of information in § 1040.10(a)(3)(i), (h)(1)(i) through (h)(1)(vi), (h)(2)(i) and (h)(2)(ii) have been approved under OMB control number 0910–0025.

The labeling requirements in § 1040.10(g) are not subject to review under the PRA because they are a public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public (5 CFR 1320.3(c)(2)).

IX. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

X. 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 in this reference section, but FDA is not responsible for any subsequent changes to the Web sites

after this document publishes in the **Federal Register**.)

1. Israeli, D., Y. Hod, and O. Geyer, ''Laser Pointers: Not to be Taken Lightly,'' *British Journal of Ophthalmology,* 84 (5), 554d (2000).
2. Seeley, D., ''Laser Pointer Causes Eye Injuries,'' ILSC Proceedings of the International Laser Conference, pp. 560–563 (1997).
3. Sell, C. H. and J. S. Bryan, ''Maculopathy From Handheld Diode Laser Pointer,'' *Archives of Ophthalmology,* 117: 1557–1558 (1999).
4. ''Circular No. A–119—**Federal Register** (Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities),'' *http://www.whitehouse.gov/omb/circulars/a119/a119.html,* accessed May 2008.
5. ''Laser Products—Conformance with IEC 60825—1, Am. 2 and IEC 60601–2–22 (Laser Notice 50)'' (66 FR 39049, July 26, 2001) (*http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm094361.htm*).
6. Barkana, Yaniv and Michael Belkin, ''Laser Eye Injuries,'' *Survey of Opthalmology,* 44: 459–478, 2000.
7. Mainster, Martin A., Bruce E. Stuck, and Jeremiah Brown, ''Assessment of Alleged Retinal Laser Injuries,'' *Archives of Ophthalmology,''* 122: 1210–1217, 2004.
8. Kincade, Kathy and Stephen G. Anderson, ''Laser Marketplace 2007: Laser Industry Navigates its Way Back to Profitability.'' *LaserFocus World,* January 2007, *http://www.laserfocusworld.com/articles/print/volume-43/issue-1/features/laser-marketplace-2007-laser-industry-navigates-its-way-back-to-profitability.html.*
9. Eastern Research Group ''Technical Quality and Economic Implications of International Harmonization of Laser Performance Standards—An Update,'' Eastern Research Group, September 2005.
10. Universal Currency Converter, *http://www.xe.com/ucc/,* accessed April 21, 2010.
11. ''Guidance on the Department of Defense Exemption from the FDA Performance Standard for Laser Products (Laser Notice No. 52),'' issued July 12, 2002.
12. ''Laser Products; Proposed Amendment to Performance Standard'' (64 FR 14180, March 24, 1999).
13. U.S. Department of Health & Human Services, ''Guidance on Proper Consideration of Small Entities in Rulemakings of the U.S. Department of Health and Human Services,'' May 2003.
14. Wyrsch, Stefan, M.D., Philipp B. Baenninger, M.D., and Martin K. Schmid, M.D., ''Retinal Injuries from a Handheld Laser Pointer'' *New England Journal of Medicine* 2010; 363:1089–1091 AND.
15. ''Party Laser 'Blinds' Russian Ravers,'' New Scientist, 14 July 2008, *http://www.newscientist.com/article/dn14310?DCMP=ILC-tabView&nsref=dn14310.*
16. Sliney, David H., John Mellerio, Veit-Peter Gabel, and Karl Shulmeister, ''What is the Meaning of Threshold in Laser Injury Experiments? Implications for Human Exposure Limits.'' *Health Physics,* 82(3):335–347; 2002.

List of Subjects

21 CFR Part 1002

Electronic products, Radiation protection, Reporting and recordkeeping requirements.

21 CFR Part 1010

Administrative practice and procedure, Electronic products, Exports, Radiation protection.

21 CFR Part 1040

Electronic products, Incorporation by reference, Labeling, Lasers, Medical devices, Radiation protection, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 1002, 1010, and 1040 be amended as follows:

PART 1002—RECORDS AND REPORTS

■ 1. The authority citation for 21 CFR part 1002 is revised to read as follows:

Authority: 21 U.S.C. 352, 360, 360i, 360j, 360hh–360ss, 371, 374, 393.

■ 2. Section 1002.1 is amended by revising Table 1 to read as follows:

§ 1002.1 Applicability.

* * * * *

TABLE 1—RECORD AND REPORTING REQUIREMENTS BY PRODUCT

Products	Manufacturer						Dealer & Distributor
	Product reports § 1002.10	Supplemental reports § 1002.11	Abbreviated reports § 1002.12	Annual reports § 1002.13	Test records § 1002.30(a) [1]	Distribution records § 1002.30(b) [2]	Distribution records §§ 1002.40 and 1002.41
DIAGNOSTIC X–RAY [3] (1020.30, 1020.31, 1020.32, 1020.33):							
Computed tomography	X	X		X	X	X	X
X-ray system [4]	X	X		X	X	X	X
Tube housing assembly	X	X		X	X	X	
X-ray control	X	X		X	X	X	X
X-ray high voltage generator	X	X		X	X	X	X
X-ray table or cradle			X		X	X	X
X-ray film changer			X		X	X	
Vertical cassette holders mounted in a fixed location and cassette holders with front panels			X		X	X	X
Beam-limiting devices	X	X		X	X	X	X
Spot-film devices and image intensifiers manufactured after April 26, 1977	X	X		X	X	X	X
Cephalometric devices manufactured after February 25, 1978			X		X	X	
Image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978			X		X	X	X
CABINET X RAY (1020.40):							
Baggage inspection	X	X		X	X	X	X
Other	X	X		X	X	X	
PRODUCTS INTENDED TO PRODUCE PARTICULATE RADIATION OR X–RAYS OTHER THAN DIAGNOSTIC OR CABINET DIAGNOSTIC X-RAY:							
Medical			X	X	X	X	
Analytical			X	X	X	X	
Industrial			X	X	X	X	
TELEVISION PRODUCTS (1020.10):							

TABLE 1—RECORD AND REPORTING REQUIREMENTS BY PRODUCT—Continued

Products	Manufacturer						Dealer & Distributor
	Product reports § 1002.10	Supplemental reports § 1002.11	Abbreviated reports § 1002.12	Annual reports § 1002.13	Test records § 1002.30(a) [1]	Distribution records § 1002.30(b) [2]	Distribution records §§ 1002.40 and 1002.41
<25 kilovolt (kV) and <0.1 milliroentgen per hour (mR/hr IRLC [5] [6]			X	X [6]			
≥25kV and <0.1mR/hr IRLC [5]	X	X		X			
≥0.1mR/hr IRLC [5]	X	X		X	X	X	
MICROWAVE/RF:							
MW ovens (1030.10)	X	X		X	X	X	
MW diathermy			X				
MW heating, drying, security systems			X				
RF sealers, electromagnetic induction and heating equipment, dielectric heaters (2–500 megahertz)			X				
OPTICAL:							
Phototherapy products	X	X					
Laser products (1040.10, 1040.11)							
Class 1 lasers and products containing such lasers [7]	X			X	X		
Class 1 laser products containing class 1M, 2, 2M, 3R lasers [7]	X			X	X	X	
Class 1M, 2, 2M, 3R lasers and products other than class 1 products containing such lasers [7]	X	X		X	X	X	X
Class 3B and 4 lasers and products containing such lasers [7]	X	X		X	X	X	X
Sunlamp products (1040.20)							
Lamps only	X						
Sunlamp products	X	X		X	X	X	X
Mercury vapor lamps (1040.30)							
T lamps	X	X		X			
R lamps			X				
ACOUSTIC:							
Ultrasonic therapy (1050.10)	X	X		X	X	X	X
Diagnostic ultrasound			X				
Medical ultrasound other than therapy or diagnostic	X	X					
Nonmedical ultrasound			X				

[1] However, authority to inspect all appropriate documents supporting the adequacy of a manufacturer's compliance testing program is retained.
[2] The requirement includes §§ 1002.31 and 1002.42, if applicable.
[3] Report of Assembly (Form FDA 2579) is required for diagnostic x-ray components; see 21 CFR 1020.30(d)(1) through (d)(3).
[4] Systems records and reports are required if a manufacturer exercises the option and certifies the system as permitted in 21 CFR 1020.30(c).
[5] Determined using the isoexposure rate limit curve (IRLC) under phase III test conditions (§ 1020.10(c)(3)(iii)).
[6] Annual report is for production status information only.
[7] Determination of the applicable reporting category for a laser product shall be based on the worst-case hazard present within the laser product.

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

■ 3. The authority citation for 21 CFR part 1010 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 360hh–360ss, 371, 381, 393.

■ 4. Section 1010.1 is revised to read as follows:

§ 1010.1 Scope.

The standards listed in this subchapter are prescribed pursuant to section 534 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360kk) and are applicable to electronic products as specified herein to control electronic product radiation from such products. Standards so prescribed are subject to amendment or revocation and additional standards may be prescribed as are determined necessary for the protection of the public health and safety.

■ 5. Section 1010.2 is amended by revising paragraph (d) to read as follows:

§ 1010.2 Certification.

* * * * *

(d) In the case of products for which it is not feasible to certify in accordance with paragraph (b) of this section, the Director, Center for Devices and Radiological Health (or delegate) may approve an alternate means by which such certification may be provided. Approval may be granted either upon written application by the manufacturer or on the Director's own initiative.

■ 6. Section 1010.3 is amended by revising paragraph (b) as follows:

§ 1010.3 Identification.

* * * * *

(b) In the case of products for which it is not feasible to affix identification labeling in accordance with paragraph (a) of this section, the Director, Center for Devices and Radiological Health (or delegate) may approve an alternate means by which such identification may be provided. Approval may be granted either upon written application by the manufacturer or on the Director's own initiative.

* * * * *

PART 1040—PERFORMANCE STANDARDS FOR LIGHT-EMITTING PRODUCTS

■ 7. The authority citation for 21 CFR part 1040 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 360hh–360ss, 371, 381, 393.

■ 8. Section 1040.5 is added to read as follows:

§ 1040.5 Standards incorporated by reference.

(a) Certain material from the standards identified in paragraph (b) of this section relating to lasers is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect copies of the standards identified in this section at FDA's Electronic Products Branch, Office of Communication, Education, and Radiation Programs,

Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4621, Silver Spring, MD 20993, 301–796–5710; or FDA's Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852; or 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/code_of_federal_regulations/ibr_locations.html.* In addition, you may obtain copies of these standards from the sources listed in paragraph (b) of this section.

(b) International Electrotechnical Commission (IEC), 3, rue de Varembé, P.O. Box 131, CH–1211 GENEVA 20, Switzerland (Phone: +41 22 919 02 11, Fax: +41 22 919 03 00, email: *inmail@iec.ch*), or the American National Standards Institute, Attn: Customer Service Department, 25 West 43d St., 4th Floor, New York, NY 10036, USA (Phone: +1 212 642 4980, Fax: +1 212 302 1286, email: *info@ansi.org*).

(1) IEC 60601–2–22 (IEC 60601–2–22:2007), Medical electrical equipment—Part 2–22: Particular requirements for basic safety and essential performance of surgical, cosmetic, therapeutic and diagnostic laser equipment, Edition 3.0, May 2007, incorporated by reference in §§ 1040.10 and 1040.11 except as otherwise noted in those sections.

(2) IEC 60825–1 (IEC 60825–1:2007), Safety of laser products—Part 1: Equipment classification and requirements, Edition 2.0, March 2007, including Corrigendum 1, dated August 2008, incorporated by reference in §§ 1040.10 and 1040.11 except as otherwise noted in those sections.

■ 9. Section 1040.10 is revised to read as follows:

§ 1040.10 Laser products.

(a) *Applicability.* The provisions of this section and § 1040.11, as amended, are applicable as specified to all laser products manufactured or assembled after [*A DATE WILL BE ADDED 2 YEARS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER*], except when:

(1) Such a laser product is sold to a manufacturer of an electronic product for use as a component (or replacement for such component) in an electronic product subject to this standard, or

(2) Such a laser product is sold by or for a manufacturer of an electronic product for use as a component (or replacement for such component) in an electronic product subject to this standard, provided that the component (or replacement for such component) laser product:

(i) Is accompanied by a general warning notice that adequate instructions for the safe installation of the product are provided in servicing information available from the complete product manufacturer under paragraph (h)(2)(ii) of this section, and should be followed,

(ii) Is labeled with a statement that it is designated for use solely as a component or replacement for such component in an electronic product subject to this standard and therefore is not required to comply with the appropriate requirements of this section and § 1040.11 for complete laser products, and

(iii) Is not a removable laser system as described in paragraph (c)(2) of this section; and

(3) The manufacturer of the component (or replacement) laser product, if manufactured after August 20, 1986,

(i) Registers and provides a listing by type of component (or replacement) laser products manufactured that includes the product name, model number, and laser medium or emitted wavelength(s). The registration and listing must include the name and address of the manufacturer and must be submitted to the Director, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G609, Silver Spring, MD 20993–0002;

(ii) Maintains and allows access to any sales, shipping, or distribution records that identify the purchaser of the component (or replacement) laser product by name and address, the product type, the number of units sold, and the date of sale (shipment). These records must be maintained and made available as specified in § 1002.31 of this subchapter; and

(iii) Documents that the purchaser of such laser product is a manufacturer as defined in § 1000.3(n) of this subchapter who will incorporate the component (or replacement for such component) into a certified laser product, or that the purchaser is another component (or replacement) supplier excluded from applicability of the standard as described in paragraphs (a)(1) or (a)(2) of this section. These records must be maintained and made available as specified in § 1002.31 of this subchapter.

Note to paragraph (a): Sections 1040.10 and 1040.11 are not applicable to light emitting diodes (LEDs) or products containing LEDs unless such products are also laser products as defined in § 1040.10(b)(4).

(b) *Definitions.* (1) The numbered definitions in clause 3 of IEC 60825–1:2007 that apply to laser products are incorporated by reference (see § 1040.5), except as otherwise noted in this section.

(2) ''Children's toy laser product'' means a product that is manufactured, designed, intended or promoted for use by children under 14 years of age.

(3) ''Invisible radiation'' means laser or collateral radiation having wavelengths equal to or greater than 180 nanometers (nm) but less than or equal to 400 nm or greater than 700 nm but less than or equal to 1,000,000 nm (1 millimeter).

Note to paragraph (b)(3): Although vision scientists consider the wavelength ranges from about 380 to 400 nm and from 700 to about 780 nm to be visible, these ranges are treated as invisible in this standard because of the reduced visual sensation.

(4) ''Laser product'' means any manufactured product or assemblage of components which constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system that is intended for use as a component of an electronic product is also a laser product.

(5) ''Protective housing'' means those portions of a laser product that prevent human access to laser radiation as required by subclause 4.2.1 of IEC 60825–1:2007 (incorporated by reference, see § 1040.5).

(6) The definitions from the following subclauses of IEC 60825–1:2007 are not applicable under this section:

(i) 3.4 administrative control;

(ii) 3.15 beam expander;

(iii) 3.42 laser controlled area;

(iv) 3.44 laser hazard area;

(v) 3.47 laser safety officer;

(vi) 3.61 nominal ocular hazard area;

(vii) 3.62 nominal ocular hazard distance.

(7) The reference to IEC 60050–845 in the first paragraph of Clause 3 of IEC 60825–1:2007 does not apply.

(8) ''Must'' as used in §§ 1040.10 and 1040.11 and ''shall'' as used in §§ 1040.10, 1040.11, IEC 60825–1:2007, and IEC 60601–2–22:2007 (incorporated by reference, see § 1040.5) are equivalent in meaning and signify a requirement.

(9) In addition to the wavelengths specified in the definition at subclause 3.24 of IEC 60825–1:2007 (incorporated by reference, see § 1040.5), collateral radiation includes x-radiation. Collateral radiation includes but is not limited to electronic product radiation that may arise from a high voltage laser

power supply, laser medium flashlamp excitation, laser tube plasma glow, or secondary radiation from a work piece.

(c) *Classification of laser products*—(1) *All laser products.* Laser products shall be classified in accordance with subclauses 8.1, 8.2, and 8.3 of IEC 60825–1:2007 (incorporated by reference, see § 1040.5).

(2) *Removable laser systems.* Any laser system that is incorporated into a laser product subject to the requirements of this section and that is capable, without modification, of producing laser radiation when removed from such laser product, shall itself be considered a laser product and shall be separately subject to the applicable requirements in this subchapter for laser products of its class. It shall be classified on the basis of accessible emission of laser radiation when so removed.

(d) *Accessible emission limits*—(1) *Accessible emission limits for laser radiation.* The requirements of the accessible emission limits in Tables 4, 5, 6, 7, 8, 9, and 10 of IEC 60825–1:2007 (incorporated by reference, see § 1040.5).

(2) *Accessible emission limits for collateral radiation from laser products.* (i) Accessible emission limits for collateral radiation having wavelengths greater than 180 nm but less than or equal to 1.0 X 10^6 nm are identical to the accessible emission limits for Class 1 laser radiation for emission durations less than or equal to 100 seconds.

(ii) Accessible emission limits for collateral radiation within the x-ray range of wavelengths is 0.5 milliroentgen in an hour, averaged over a cross-section parallel to the external surface of the product, having an area of 10 square centimeters with no dimension greater than 5 centimeters (cm).

(e) *Tests for determination of compliance*—(1) *Tests for certification.* Tests on which certification under § 1010.2 of this subchapter is based must account for all errors and statistical uncertainties in the measurement process.

(2) *Rules and tests for classification.* Clause 9 of IEC 60825–1:2007 (incorporated by reference, see § 1040.5) applies, except that the portion of subclause 9.1 which prescribes that tests must be made under each and every reasonably foreseeable single fault condition is not applicable.

(f) *Performance requirements.* Each laser product must comply with the applicable performance requirements as specified in the subclauses cited in paragraphs (f)(1) through (f)(5) and (f)(7) through (f)(11) of this section from IEC 60825–1:2007, Clause 4 (incorporated by reference, see § 1040.5) except as otherwise noted.

(1) *Protective housing.* The requirements for protective housings are found in subclauses 4.2.1, 4.2.2, and 4.12 of IEC 60825–1:2007.

(2) *Safety interlocks.* The requirements for safety interlocks are found in subclause 4.3 of IEC 60825–1:2007.

(3) *Remote interlock connector.* Follow the requirements of subclause 4.4 of IEC 60825–1:2007. The following requirement is added to the requirements of subclause 4.4: The electrical potential difference between the terminals must not be greater than 130 root-mean-square volts.

(4) *Security master control.* Follow the requirements of subclause 4.6 of IEC 60825–1:2007, except for the second sentence. The following requirement is added to the requirements of subclause 4.6: The key may be removable and in the absence of the key, there shall be a means to terminate production of laser radiation.

(5) *Laser radiation emission indicator.* Follow the requirements found in subclause 4.7 of IEC 60825–1:2007. The following requirement is added to those in subclause 4.7: The warning shall occur sufficiently prior to emission of such radiation to allow appropriate action to avoid exposure to the laser radiation.

(6) *Beam stop or attenuator.* Subclause 4.8 of IEC 60825–1:2007 is not applicable. The following is instead applicable:

(i) Each laser system classified as a Class 3B or 4 laser product, must be provided with one or more permanently attached means, other than laser energy source switch(es), electrical supply main connectors, or the security master control, capable of preventing access by any part of the human body to all laser and collateral radiation in excess of the accessible emission limits of Class 1, 1M, 2, or 2M as applicable.

(ii) Upon written application by the manufacturer or on the initiative of the Director, Center for Devices and Radiological Health, the Director may, upon determination that the configuration, design, or function of the laser product would make compliance with this requirement unnecessary, approve alternate means to accomplish the radiation protection provided by the beam stop or attenuator.

(7) *Location of controls.* Follow the requirements of subclause 4.9 of IEC 60825–1:2007.

(8) *Viewing optics.* Follow the requirements of subclause 4.10 of IEC 60825–1:2007.

(9) *Scanning safeguard.* Follow the requirements of subclause 4.11 of IEC 60825–1:2007.

(10) *Manual reset mechanism.* Follow the requirements of subclause 4.5 of IEC 60825–1:2007.

(11) *Environmental conditions.* Subclause 4.13 of IEC 60825–1:2007 applies except the references to IEC 61010–1, Safety requirements for electrical equipment for measurement, control, and laboratory use—Part 1—General requirements, 2d edition, 2001–02, in subclause 4.13 are not applicable.

(12) *Collateral radiation.* The protective housing of laser products must prevent human access to collateral radiation that exceeds the limits for collateral radiation as specified in § 1040.10(d)(2). Subclause 4.14.2 of IEC 60825–1:2007, Collateral radiation, is not applicable.

(13) *Non-optical hazards.* Subclause 4.14.1 of IEC 60825–1:2007, Non-optical hazards, is not applicable.

(g) *Labeling requirements.* In addition to the requirements of §§ 1010.2 and 1010.3 of this subchapter, each laser product must comply with the applicable labeling requirements of this paragraph. Clause 5 of IEC 60825–1:2007 (incorporated by reference, see § 1040.5) applies, except as otherwise noted in this paragraph.

(1) *Applicability.* The second and third paragraphs of subclause 5.1 are not applicable.

(2) *Alternate labeling.* If the labeling prescribed in subclauses 5.1 through 5.8 of IEC 60825–1:2007 are not used, the following alternative labeling shall be used:

(i) *Class 1M designation and warning.* Each Class 1M laser product must have a label bearing the following wording:

''LASER RADIATION DO NOT VIEW DIRECTLY WITH OPTICAL INSTRUMENTS CLASS 1M LASER PRODUCT''

Instead of affixing this label to the Class 1M laser product, the manufacturer may include the specified warning in the user instructions.

(ii) *Class 2 and 2M designations and warnings.* (A) Each Class 2 laser product must have affixed a label bearing the warning logotype A (Figure 1 in this paragraph) and include the following wording:

[Position 1 on the logotype]

''LASER RADIATION—DO NOT STARE INTO BEAM''; and

[Position 3 on the logotype]

''CLASS 2 LASER PRODUCT.''

WARNING LOGOTYPE A

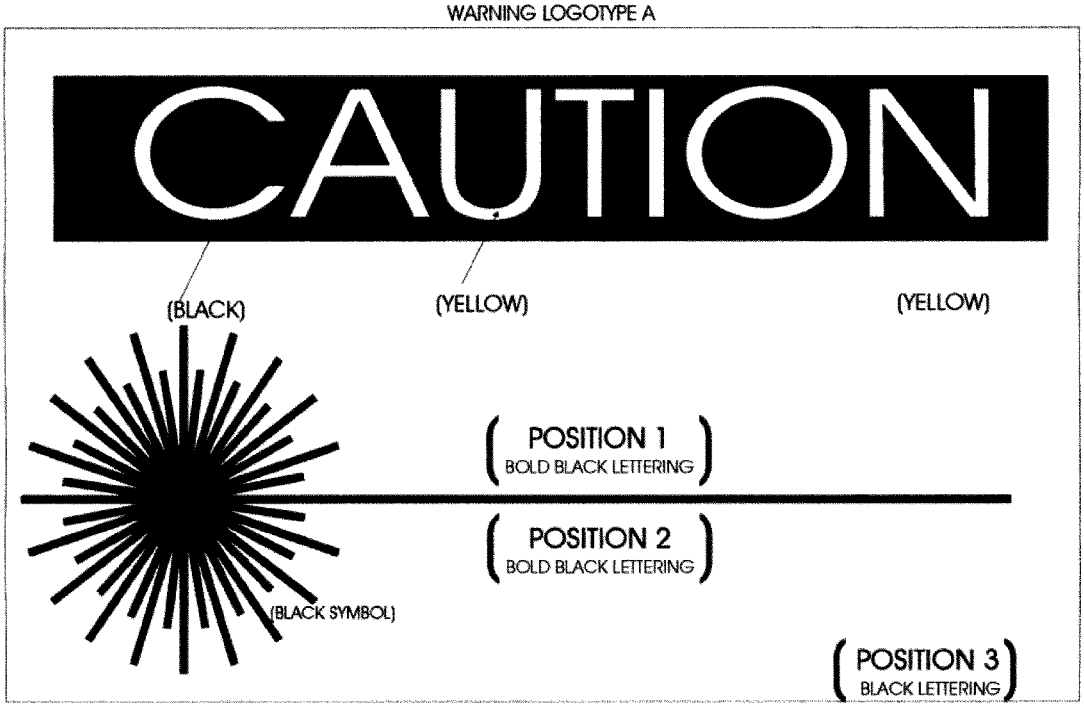

FIGURE 1

(B) Each Class 2M laser product must have affixed a label bearing the warning logotype A (Figure 1 of this paragraph) and include the following wording:

[Position 1 on the logotype]

''LASER RADIATION—DO NOT STARE INTO BEAM OR VIEW DIRECTLY WITH OPTICAL INSTRUMENTS''; and

[Position 3 on the logotype]

''CLASS 2M LASER PRODUCT.''

(iii) *Class 3R and 3B designations and warnings.* (A) Each Class 3R laser product with accessible radiation in the wavelength range from 400 nm to 1400 nm must have affixed a label bearing the warning logotype A (Figure 1 of this paragraph) and include the following wording:

[Position 1 on the logotype]

''LASER RADIATION—AVOID DIRECT EYE EXPOSURE''; and,

[Position 3 on the logotype]

''CLASS 3R LASER PRODUCT.''

(B) Each Class 3R laser product with accessible radiation outside the wavelength range from 400 nm to 1400 nm must have affixed a label bearing the warning logotype A (Figure 1 of this paragraph) and include the following wording:

[Position 1 on the logotype]

''LASER RADIATION—AVOID DIRECT EXPOSURE TO BEAM''; and,

[Position 3 on the logotype]

''CLASS 3R LASER PRODUCT.''

(C) Each Class 3B laser product must have affixed a label bearing the warning logotype B (Figure 2 of this paragraph) and include the following wording:

[Position 1 on the logotype]

''LASER RADIATION—AVOID EXPOSURE TO BEAM''; and,

[Position 3 on the logotype]

''CLASS 3B LASER PRODUCT''.

WARNING LOGOTYPE B

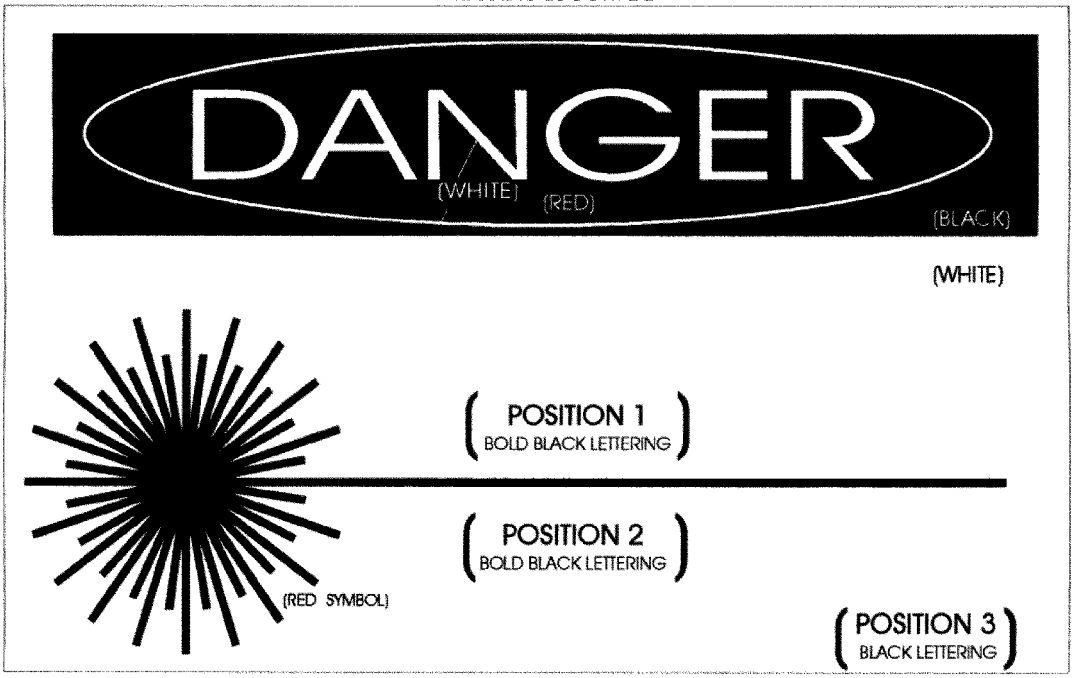

FIGURE 2

(iv) *Class 4 designation and warning.* Each Class 4 laser product must have affixed a label bearing the warning logotype B (Figure 2 of this paragraph) and include the following wording:

[Position 1 on the logotype]

''LASER RADIATION—AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION''; and,

[Position 3 on the logotype]

''CLASS 4 LASER PRODUCT.''

(v) *Radiation output information on warning logotype.* Each Class 1M, 2, 2M, 3R, 3B, and 4 laser product must state in appropriate units, at position 2 on the required warning logotype, the maximum output of laser radiation, the pulse duration when appropriate, and the emitted wavelength(s).

(3) *Additional wording.* In addition to the wording for labels for access panels as specified in subclause 5.9 of IEC 60825–1:2007 (incorporated by reference, see § 1040.5), the following wording is required.

(i) ''CAUTION—Hazardous electromagnetic radiation when open'' for collateral radiation in excess of the accessible emission limit in paragraph (d)(2)(i) of this section.

(ii) ''CAUTION—Hazardous x-rays when open'' for collateral radiation in excess of the accessible emission limit in paragraph (d)(2)(ii) of this section.

(4) *Positioning of labels.* All labels affixed to a laser product shall be positioned so as to make unnecessary, during reading, human exposure to laser radiation in excess of the accessible emission limits of Class 1 radiation or the limits of collateral radiation specified in paragraph (d)(2) of this section.

(5) *Visible and/or invisible laser radiation.* Subclauses 5.10 and 5.11 of IEC 60825–1:2007 (incorporated by reference, see § 1040.5) are applicable.

(6) *Label specifications.* Labels required by this section and § 1040.11 shall be permanently affixed to, or inscribed on, the laser product, legible, and clearly visible during operation, maintenance, or service, as appropriate. If the size, configuration, design, or function of the laser product would preclude compliance with the requirements for any required label or would render the required wording of such label inappropriate or ineffective, the Director, Center for Devices and Radiological Health, on the Director's own initiative or upon written application by the manufacturer, may approve alternate means of providing such label(s) or alternate wording for such label(s) as applicable.

(h) *Informational requirements*—(1) *User information.* Manufacturers of laser products must provide or cause to be provided with any user instruction or operation manual that is regularly supplied with the product or, if a manual is not so supplied, must provide with each laser:

(i) Adequate instructions for assembly, operation, and maintenance, including clear warnings concerning precautions to avoid possible exposure to laser and collateral radiation in excess of the accessible emission limits of paragraph (d) of this section determined using the tests prescribed under paragraph (e) of this section, and a schedule of maintenance necessary to keep the product in compliance with this section and, if applicable, with § 1040.11.

(ii) A statement of the magnitude, in appropriate units, of the pulse duration(s), maximum radiant power and, where applicable, the maximum radiant energy per pulse of the accessible laser radiation detectable in each direction in excess of the accessible emission limits of Class 1.

(iii) Legible reproductions (color optional) of all labels and hazard warnings required by paragraph (g) of this section and, if applicable, by § 1040.11, are to be affixed to the laser product or provided with the laser product, including all required information and warnings. The corresponding position of each label affixed to the product must be indicated or, if provided with the product, a statement that such labels could not be affixed to the product but were supplied with the product and a statement of the form and manner in which they were supplied must be provided.

(iv) A listing of all controls, adjustments, and procedures for operation and maintenance, including a cautionary warning that the use of controls or adjustments or performance of procedures other than as specified

may result in hazardous radiation exposure.

(v) In the case of laser products other than laser systems, a statement of the compatibility requirements for a laser energy source that will assure compliance of the laser product with this section and, if applicable, with § 1040.11.

(vi) For Class 1M and 2M laser products, an additional warning is required. This warning must state that viewing the laser output with optical instruments may result in an eye hazard for Class 1M or an increased eye hazard for Class 2M.

(2) *Purchasing and servicing information.* Manufacturers of laser products must provide or cause to be provided:

(i) In all catalogs, specification sheets, and descriptive brochures pertaining to each laser product, a statement of the class designation of the laser product.

(ii) To servicing dealers and distributors and to others upon request at a cost not to exceed the cost of preparation and distribution, adequate instructions for radiation safety procedures during service. The radiation safety procedures must include:

(A) Precautions to be taken to avoid possible exposure of service and other personnel to hazardous levels of laser and collateral radiation,

(B) A listing of controls and procedures that could be utilized by persons other than the manufacturer or the manufacturer's agents to increase the hazard by increasing accessible levels of radiation,

(C) A description of the displaceable portions of protective housings that could allow human access to hazardous levels of laser or collateral radiation, and

(D) Legible reproductions (color optional) of required labels and hazard warnings required by paragraph (g) of this section and, if applicable, by § 1040.11, to be affixed to the laser product or provided with the laser product.

(i) *Modification of certified laser products.* The modification of a laser product previously certified under § 1010.2 of this subchapter by any person engaged in the business of manufacturing, assembling, or modifying laser products constitutes manufacturing under the Federal Food, Drug, and Cosmetic Act if the modification affects any aspect of the product's performance or intended function(s) for which this section or § 1040.11 have an applicable requirement. The person who performs such modification must recertify and re-identify the product in accordance with the provisions of §§ 1010.2 and 1010.3 of this subchapter.

■ 10. Section 1040.11 is revised to read as follows:

§ 1040.11 Specific purpose laser products.

(a) *Medical laser products.* Each medical laser product must comply with all of the applicable requirements of § 1040.10 for laser products of its class. In addition, such products must comply with the following specified clauses and subclauses of IEC 60601–2–22:2007 and IEC 60825–1:2007 (incorporated by reference; see § 1040.5).

(1) Instructions for use, subclause 201.7.9.2 of IEC 60601–2–22:2007;

(2) Protection against unwanted and excessive radiation hazards, clause 201.10 of IEC 60601–2–22:2007, except for:

(i) Applicability to medical LED products, and

(ii) Emission indicator, subclause 201.10.4(e) of IEC 60601–2–22:2007, for which subclause 4.7 of IEC 60825–1:2007 is applicable;

(3) Indication of laser output, subclause 201.12.1.101 of IEC 60601–2–22:2007;

(4) Indication of parameters relevant to safety, subclause 201.12.4.2 of IEC 60601–2–22:2007;

(5) Calibration procedures, subclause 201.7.9.2.101, 4th dash of IEC 60601–2–22:2007;

(6) Incorrect output, subclause 201.12.4.4 of IEC 60601–2–22:2007; and

(7) Emergency laser stop, subclause 201.12.4.4.101 of IEC 60601–2–22:2007.

(b) *Surveying, leveling, and alignment laser products.* Each surveying, leveling, or alignment laser product must comply with all of the applicable requirements of § 1040.10 for a Class 1, 2, or 3R laser product and must not permit human access to laser radiation in excess of the accessible emission limits of Class 3R.

(c) *Demonstration laser products.* Each demonstration laser product must comply with all of the applicable requirements of § 1040.10 for a Class 1, 2, or 3R laser product and must not permit human access to laser radiation in excess of the accessible emission limits of Class 3R.

(d) *Children's toy laser products.* Each children's toy laser product must comply with all of the applicable requirements of § 1040.10 for a Class 1 laser product and must not permit human access to laser radiation in excess of the accessible emission limits of Class 1 under any conditions of operation, maintenance, service, or failure. If a children's toy laser product also meets the definition of a demonstration laser product or surveying, leveling, and alignment laser product, then the classification limit for children's toy laser product applies.

(e) *Laser products procured by the U.S. Department of Defense (DOD).* Laser products procured by the DOD for use in combat, combat training, or that are classified in the interest of national security are exempt from the other provisions of this section, and from §§ 1002.10, 1002.11, 1002.13 of this subchapter, and those provisions of § 1040.10 that are determined not to be appropriate for the intended military application. In order for this exemption to apply to a specific laser product, the manufacturer of such product shall obtain a letter from an authorized DOD procuring Agency that applies the exemption to the products. The exemption letter must be obtained prior to sale and must be retained for subsequent sales of the exempted products under the specific contract to any DOD Agency.

Dated: June 18, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–14846 Filed 6–21–13; 8:45 am]

BILLING CODE 4160–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0384; FRL–9826–2]

Approval and Promulgation of Implementation Plans; California; South Coast; Contingency Measures for 1997 $PM_{2.5}$ Standards

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a state implementation plan (SIP) revision submitted by California to address Clean Air Act (CAA) contingency measure requirements for the 1997 annual and 24-hour national ambient air quality standards (NAAQS) for fine particulate matter ($PM_{2.5}$) in the Los Angeles-South Coast Air Basin (South Coast). Final approval of this SIP revision would terminate the sanctions clocks and a federal implementation plan (FIP) clock that were triggered by EPA's partial disapproval of a related SIP submission on November 9, 2011 (76 FR 69928).

DATES: Any comments must arrive by July 24, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–

OAR–2013–0384, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
- *Email: lo.doris@epa.gov.*
- *Mail or deliver:* Marty Robin, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically on the *www.regulations.gov* Web site and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Copies of the SIP materials are also available for inspection at the following locations:

- California Air Resources Board, 1001 I Street, Sacramento, California 95814, and
- South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, California 91765.

FOR FURTHER INFORMATION CONTACT: Doris Lo, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region 9, (415) 972–3959, *lo.doris@epa.gov.*

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

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I. Background

On July 18, 1997 (62 FR 36852), EPA established new national ambient air quality standards (NAAQS) for $PM_{2.5}$, particulate matter with a diameter of 2.5 microns or less, including annual standards of 15.0 micrograms per cubic meter (μg/m³) based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and 24-hour (daily) standards of 65 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. 40 CFR 50.7. Effective April 5, 2005, EPA designated the ''Los Angeles-South Coast Air Basin'' in California (South Coast), including Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County, as nonattainment for the 1997 24-hour and annual $PM_{2.5}$ standards. See 70 FR 944 (January 5, 2005) and 40 CFR 81.305.[1] The local air district with primary responsibility for developing a plan to attain the $PM_{2.5}$ NAAQS in this area is the South Coast Air Quality Management District (SCAQMD or District).

California has made numerous SIP submittals to address the South Coast area's nonattainment designation for the 1997 $PM_{2.5}$ NAAQS. The two principal ones are the SCAQMD's ''Final 2007 Air Quality Management Plan'' (South Coast 2007 AQMP), submitted on November 28, 2007, and the California Air Resources Board's (CARB's) ''State Strategy for California's 2007 State Implementation Plan'' (2007 State Strategy), submitted on November 16, 2007 and revised in 2009 and 2011 through CARB's ''2009 State Strategy Status Report'' and ''2011 Progress Report.''

On November 9, 2011, EPA partially approved and partially disapproved the South Coast 2007 AQMP and the 2007 State Strategy (collectively the ''South Coast $PM_{2.5}$ SIP''). 76 FR 69928. As part of this action, EPA disapproved the contingency measure provisions in the South Coast $PM_{2.5}$ SIP as failing to meet the requirements of CAA section 172(c)(9) and 40 CFR 51.1012, which require that the SIP for each $PM_{2.5}$ nonattainment area contain contingency measures to be implemented if the area fails to make reasonable further progress (RFP) or to attain the NAAQS by the applicable attainment date. *See* 76 FR 41578–41580 (July 14, 2011) and 76 FR 69947 (November 9, 2011). EPA found that the suggested contingency measures contained in the South Coast $PM_{2.5}$ SIP did not meet the minimum CAA requirements because, among other things, the measures were not fully adopted and the District had failed to quantify the SIP-creditable emission reductions they would achieve. *Id.*

As EPA explained in the proposed rule, contingency measures must be fully adopted rules or control measures that are ready to be implemented quickly without significant additional action by the State, must be measures not relied on in the plan to demonstrate RFP or attainment, and should provide SIP-creditable emissions reductions equivalent to one year of RFP. *See* 76 FR 41652 (July 14, 2011) at 41578; *see also* ''Final Technical Support Document and Response to Comments, Final Rulemaking Action on the South Coast 2007 AQMP for $PM_{2.5}$ and the South Coast Portions of the Revised 2007 State Strategy,'' Air Division, U.S. EPA Region 9, September 30, 2011 (''Final TSD for South Coast $PM_{2.5}$ SIP'') at pp. 123–130. Additionally, the SIP should contain trigger mechanisms for the contingency measures and specify a schedule for their implementation. *Id.*

Although CARB's 2011 Progress Report demonstrated that existing CARB mobile source measures would achieve 24 tons per day (tpd) of NO_X reductions and 13 tpd of VOC reductions in 2015, the year after the attainment year, EPA found that these measures alone were not adequate to satisfy the Act's contingency measure requirements. *See* 76 FR 41478–80 and 76 FR 69947–8, 69952. Specifically, EPA reviewed the information provided in the 2011 Progress Report and found that these post-attainment year emission reductions were not sufficient to achieve one year's worth of RFP on a pollutant-specific basis.[2] 76 FR 41579–

[1] EPA has also designated the South Coast area as nonattainment for the more stringent 24-hour $PM_{2.5}$ NAAQS of 35 μg/m³, which EPA promulgated on October 17, 2006 and codified in 40 CFR 50.13. 74 FR 58688 (November 13, 2009). In this preamble, all references to the $PM_{2.5}$ NAAQS, unless otherwise specified, are to the 1997 24-hour $PM_{2.5}$ standards of 65 μg/m³ and annual standards of 15 μg/m³ as codified in 40 CFR 50.7.

[2] EPA estimated one year's worth of RFP to be approximately 49 tpd of NO_X, 29 tpd of VOC, 0.7 tpd of direct $PM_{2.5}$ and 3.8 tpd of SO_X reductions. *See* Final TSD at Table I–2 (pg. 128). Thus, the 24

41580. EPA also found that the South Coast $PM_{2.5}$ SIP did not address the contingency measure requirement for the 2012 RFP year. *Id.* at Table 9. Accordingly, EPA disapproved the contingency measure provisions in the South Coast $PM_{2.5}$ SIP for failure to satisfy the Act's contingency measure requirements for the 2012 RFP year and for the 2015 attainment date. *Id.* at 41580 and 76 FR 69952.

II. Summary of California Submittal

On November 14, 2011, CARB submitted the ''South Coast Air Quality Management District Proposed Contingency Measures for the 2007 PM2.5 SIP'' (dated October 2011) (''Contingency Measures SIP'') as a revision to the California SIP. The November 14, 2011 submittal includes a copy of the Contingency Measures SIP itself; a letter dated November 14, 2011 from James N. Goldstene, Executive Officer, California Air Resources Board, to Jared Blumenfeld, Regional Administrator, U.S. Environmental Protection Agency Region 9, submitting the adopted Contingency Measures SIP for EPA review; CARB Executive Order S–11–023 adopting the Contingency Measures SIP; a letter dated October 26, 2011 from Barry R. Wallerstein, Executive Officer, SCAQMD, to James Goldstene, Executive Officer, CARB, submitting the adopted Contingency Measures SIP for CARB review and approval; SCAQMD Resolution No. 11–24 approving the Contingency Measures SIP; and public process documentation.

On April 24, 2013, the District submitted a technical clarification to the Contingency Measures SIP, including updated emissions data for 2012. *See* letter dated April 24, 2013, from Elaine Chang, Deputy Executive Officer, SCAQMD, to Deborah Jordan, Director, Air Division, EPA Region 9, Re: ''Update of the 2012 RFP Emissions and 2015 Reductions from Contingency Measures for the 2007 Annual $PM_{2.5}$ Air Quality Management Plan for the South Coast Air Basin,'' including attachments (hereinafter ''2013 Supplement'').

The Contingency Measures SIP, as supplemented in 2013, contains: (1) The District's demonstration that actual emission levels in the South Coast in 2012 were below the RFP ''benchmarks'' for the 2012 RFP year; (2) identification of SIP-creditable control measures that will provide emission reductions in 2015 in excess of those relied on to demonstrate RFP and attainment; and (3) the SCAQMD's analysis of significant air quality improvements in the South Coast area that the District believes EPA should take into account in its review of and action on the SIP submission.

III. EPA Review of the SIP Revision

A. SIP Procedural Requirements

CAA sections 110(a) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing.

CARB's SIP submission includes public process documentation for the Contingency Measures SIP, including documentation of a duly noticed public hearing held by the District on October 7, 2011 on the proposed Contingency Measures SIP. On November 14, 2011, CARB adopted the Contingency Measures SIP as a revision to the California SIP and submitted it to EPA for action pursuant to CAA section 110(k).[3] We find that the process followed by CARB and the District in adopting the Contingency Measures SIP complies with the procedural requirements for SIP revisions under CAA section 110 and EPA's implementing regulations.

B. Substantive Requirements for Contingency Measures

Section 172(c)(9) of the CAA requires that the SIP for each nonattainment area ''provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under [part D of title I]'' and requires that these measures ''take effect without further action by the State or EPA.'' The Act does not specify how many contingency measures are required or the magnitude of emissions reductions that must be provided by these measures. Consistent with the text of section 172(c)(9), however, these measures must be specific, adopted measures that are ready to be implemented quickly upon failure to meet RFP or failure of the area to meet the standard by its attainment date.[4]

EPA provided guidance on the section 172(c)(9) contingency measure requirement in an interpretative document entitled ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992) (''General Preamble''). As EPA explained in the General Preamble, ''contingency measures should, at a minimum, ensure that an appropriate level of emissions reduction progress continues to be made if attainment [or] RFP is not achieved and additional planning by the State is needed.'' 57 FR 13511. These emission reductions would be in addition to those that were already scheduled to occur in accordance with the plan for the area. *Id.* at n. 2 and 13543–544. Additionally, States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review. In general, EPA expects all actions needed to effect full implementation of the measures to occur within 60 days after EPA notifies the State of its failure. 57 FR 13512 and 13543–544; *see also* 59 FR 41998 at 42014–42015 (August 16, 1994)(''PM–10 Addendum'').

Consistent with these longstanding interpretations of the Act, EPA explained in the preamble to its 2007 implementation rule for the 1997 $PM_{2.5}$ NAAQS that the SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measures will be implemented without significant further action by the State or EPA. *See* 72 FR 20586 at 20642–20645 (April 25, 2007) and 40 CFR 51.1012.[5]

tpd of NO_X reductions and 13 tpd of VOC reductions achieved in 2015 by CARB's mobile source measures would amount to approximately half of those NO_X and VOC measures needed to achieve one year's worth of RFP reductions.

[3] The 2013 Supplement is not subject to additional procedural requirements under the Act as it is a technical clarification that does not alter the substance of the Contingency Measures SIP.

[4] We refer to those measures addressing failure to make RFP as ''RFP contingency measures'' and those measures addressing failure to attain as ''attainment contingency measures.''

[5] Although the U.S. Court of Appeals for the District of Columbia (DC Circuit) recently remanded this rule and directed EPA to re-promulgate it pursuant to subpart 4 of part D, title I of the CAA (*see Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir., Jan. 4, 2013)), the court's ruling in this case does not affect EPA's action on the Contingency Measures SIP. Subpart 4 of part D, title I of the Act contains no specific provision governing contingency measures for PM_{10} or $PM_{2.5}$ nonattainment areas that supersedes the general contingency measure requirement for all nonattainment areas in CAA section 172(c)(9). Thus, even if EPA applies the subpart 4 requirements to our evaluation of the Contingency Measures SIP and disregards the provisions of the 2007 $PM_{2.5}$ implementation rule recently remanded by the court, the general requirement for contingency measures in CAA section 172(c)(9) and

Continued

Contingency measures can include federal measures and local measures already scheduled for implementation that provide emissions reductions in excess of those needed to provide for RFP or expeditious attainment. The key is that the statute requires that contingency measures provide for additional emission reductions that are not relied on for RFP or attainment and that are not included in the RFP or attainment demonstrations. The purpose is ''to provide a cushion while the plan is being revised to meet the missed milestone.'' 72 FR 20642–20643. Nothing in the statute precludes a State from implementing such measures before they are triggered. *See, e.g., LEAN* v. *EPA,* 382 F.3d 575 (5th Cir. 2004) (upholding contingency measures that were previously required and implemented and which provided emissions reductions in excess of those in the attainment demonstration and RFP SIP).

The EPA has approved numerous SIPs under this interpretation—*i.e.,* SIPs that use as contingency measures one or more federal or local measures that are in place and provide reductions that are in excess of the reductions required by the attainment demonstration or RFP plan. *See, e.g.,* 62 FR 15844 (April 3, 1997) (direct final rule approving Indiana ozone SIP revision); 62 FR 66279 (December 18, 1997) (final rule approving Illinois ozone SIP revision); 66 FR 30811 (June 8, 2001) (direct final rule approving Rhode Island ozone SIP revision); 66 FR 586 (January 3, 2001) (final rule approving District of Columbia, Maryland, and Virginia ozone SIP revisions); and 66 FR 634 (January 3, 2001) (final rule approving Connecticut ozone SIP revision). The State may use the same measures for purposes of both RFP and attainment contingency if the measures will provide reductions in the relevant years. Should these measures first be triggered for failure to make RFP, however, the State would need to submit replacement contingency measures for attainment purposes. *See* 57 FR 13511.

With respect to the level of emission reductions associated with contingency measures, EPA has recommended that states consider ''the potential nature and extent of any attainment shortfall for the area'' and the amount of actual emissions reductions required by the SIP control strategy to attain the standards. PM–10 Addendum at 42015; *see also* 72 FR 20643. The contingency measures are to be implemented in the event that the area does not meet RFP or attain the standards by the attainment date, and ''should represent a portion of the actual emissions reductions necessary to bring about attainment in [the] area.'' 72 FR 20643. Generally, EPA has recommended that the emissions reductions anticipated by the contingency measures should be equal to approximately 1 year's worth of emissions reductions necessary to achieve RFP for the area. *See id.* and PM–10 Addendum at 42015.

1. 2012 RFP Contingency Measures

The Contingency Measures SIP states that the District has identified several already-adopted rules that will achieve additional emission reductions for the 2012 RFP year beyond those reductions already accounted for in the South Coast $PM_{2.5}$ SIP. Additionally, the Contingency Measures SIP provides the District's rationale for concluding that significant $PM_{2.5}$ air quality improvements in the South Coast area should be accounted for in evaluating the 2012 RFP contingency measure requirement for the area. *See* Contingency Measures SIP at 5–11. Finally, the 2013 Supplement to the Contingency Measures SIP provides a demonstration that the South Coast area achieved its 2012 RFP benchmarks. Based on our review of the District's analyses and our independent review of available $PM_{2.5}$ air monitoring data for the 2002 to 2012 period, EPA is proposing to find that the RFP requirement for the 2012 RFP year has been met and that, therefore, the contingency measure requirement for that year is now moot.[6]

According to the District, recent modeling analyses indicate that ''existing air quality at all monitoring stations is already better than it would be if emissions were at the levels projected in the plan for RFP, and an additional one year's worth of reductions had been implemented (i.e., simulated implementation of contingency measure on top of actually meeting RFP).'' Contingency Measures SIP at 2. The District states that the speciated regional modeling analysis in the South Coast $PM_{2.5}$ SIP had predicted that implementation of the plan would result in a reduction in the basin-wide design concentration from 22.7 μg/m³ in 2005 to a value of 17.98 μg/m³ in 2010. *Id.* at 5. The maximum observed design value for 2010 at the design value site[7] (Rubidoux[8]), however, was 15.01 μg/m³ according to the District, 17 percent lower than the concentrations projected in the plan. *See id.; see also id.* at 10, Table 2. Accounting for temporary reductions in ambient $PM_{2.5}$ levels due to favorable weather and reduced economic activity, the District estimates the $PM_{2.5}$ design value ''improvement'' attributable to implementation of its plans, compared to previous projections, to be approximately 1.88 μg/m³ in 2010. *Id.* at 8–10 and Table 2. If $PM_{2.5}$ air quality at the design site (Rubidoux) were to remain at 2010 levels through 2012, the difference between the predicted and observed design value would show a 1.47 μg/m³ improvement over the 2012 projections underlying the South Coast $PM_{2.5}$ SIP. *Id.* at 5. According to the District, these $PM_{2.5}$ air quality improvements equate to approximately 420 tons per day (tpd) of NO_X emission reductions in 2012. *Id.*

Additionally, the District's 2013 Supplement includes a demonstration that the South Coast area achieved its emission reduction benchmarks for the 2012 RFP year. Specifically, the updated emissions inventory data[9] provided in this technical supplement show that emissions of direct $PM_{2.5}$, NO_X, VOC, and SO_X were all below the corresponding 2012 benchmarks in the South Coast $PM_{2.5}$ SIP. *See id.* at Attachment 1 (''Updated Table C–2, South Coast Air Basin $PM_{2.5}$ Reasonable Further Progress''). Based on the District's evaluation of these updated emissions data, the District concludes that it satisfied its 2012 RFP benchmarks and, accordingly, that RFP

EPA's longstanding interpretation of it continue to apply.

[6] Given our proposal to conclude that contingency measures for the 2012 RFP year are no longer required, we do not evaluate here the incentive programs and voluntary measures that the Contingency Measures SIP discusses for purposes of addressing the 2012 RFP contingency measure requirement. To the extent the District discusses these same measures to address the attainment contingency measure requirement, however, we have reviewed those analyses and discuss our evaluation of them in Section III.B.2.b, *infra* (''Attainment Contingency Measures'').

[7] Consistent with EPA's definition of ''design value'' in 40 CFR 58.1, we use the term ''design value site'' to refer to the monitoring site that records the highest calculated pollutant concentration (according to the applicable appendix of 40 CFR part 50) in the nonattainment area.

[8] Although the current design value site for the area is the Mira Loma (Van Buren) monitoring station, this site was not accounted for in the analyses underlying the South Coast $PM_{2.5}$ SIP as it was not operational until 2007. *See* Contingency Measures SIP at 5, n. 2. Therefore, the District compared the projected and observed values for the Rubidoux monitoring site, which was the design value site prior to 2007.

[9] This updated emissions data is based on emissions inventory data that the District adopted in December 2012 as part of its Final 2012 Air Quality Management Plan, which CARB submitted to EPA as a SIP revision on February 13, 2013. *See* letter dated February 13, 2013, from James Goldstene, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9, transmitting 2012 AQMP and enclosures.

contingency measures for this milestone year are no longer needed. *See id.*

We agree with the District's conclusion that the South Coast area met the 2012 RFP benchmarks in the South Coast $PM_{2.5}$ SIP and that RFP contingency measures for 2012 are, therefore, no longer needed. EPA reviewed the updated 2012 emissions inventory data provided by the District in the 2013 Supplement and confirmed that the data are consistent with the emissions inventory data recently submitted to EPA as part of the District's 2012 AQMP, which includes the State's plan to provide for attainment of the 2006 $PM_{2.5}$ NAAQS in the South Coast area. *See* Memorandum from Wienke Tax to File dated May 30, 2013. The updated data in the 2013 Supplement show that actual emissions of direct $PM_{2.5}$, NO_X, VOC, and SO_X in the South Coast were all below the corresponding 2012 benchmarks in the South Coast $PM_{2.5}$ SIP.[10] *See id.*

Additionally, EPA independently reviewed $PM_{2.5}$ air quality data available in EPA's ''Air Quality System'' (AQS) for the 2002–2012 period to assess the District's representations regarding $PM_{2.5}$ air quality improvements in the South Coast area,[11] as well as the District's estimates of the amounts of emission reductions that these air quality improvements represent. We believe these assessments further support a conclusion that emission levels in the South Coast area were below the 2012 RFP benchmarks in the South Coast $PM_{2.5}$ SIP. For more detail on our technical evaluations, *see* Memorandum from Carol Bohnenkamp to File dated May 30, 2013.

Based on this information, EPA proposes to find that the RFP contingency measure requirement for 2012 is now moot as applied to the South Coast. The sole purpose of RFP contingency measures is to provide continued progress if the area fails to meet its RFP goal. Failure to meet the 2012 benchmark would have required California to implement RFP contingency measures and to revise the South Coast $PM_{2.5}$ SIP to assure that the plan still provided for attainment by the attainment date of April 5, 2015. In this case, however, the 2013 Supplement submitted by the District demonstrates that actual emission levels in 2012 met the SIP-approved benchmarks for all four pollutants ($PM_{2.5}$, NO_X, VOC, and SO_X), and both the District's and EPA's evaluations of the substantial $PM_{2.5}$ air quality improvements in the South Coast area further support a conclusion that emission levels in the area were well below the 2012 RFP benchmarks. Accordingly, RFP contingency measures for 2012 no longer have meaning or purpose, and the requirement for them is moot.

2. Attainment Contingency Measures

a. Regulatory Measures and Programs

The South Coast $PM_{2.5}$ SIP, as partially approved and partially disapproved by EPA in November 2011 (76 FR 69928), provides for the continuing implementation of existing CARB mobile source measures that will achieve 24 tpd of NO_X reductions and 13 tpd of VOC reductions in 2015. *See* 76 FR 41562 at 41580, Table 9, and Final TSD for South Coast $PM_{2.5}$ SIP at 126. These mobile source emission reductions are surplus to the reductions relied upon to demonstrate RFP and attainment because they occur in 2015 (after implementation of all control measures necessary for expeditious attainment)[12] and will achieve approximately one half of the NO_X and VOC emission reductions needed to achieve 1 year's worth of RFP.[13]

The Contingency Measures SIP also identifies two stationary source control measures that the District believes should be creditable towards meeting the attainment contingency measure requirement: (1) The ''SO_X RECLAIM Shave,'' which is projected to achieve 1.10 tpd of SO_X reductions in 2014, and (2) SCAQMD Rule 1113 (Architectural Coatings), which is projected to achieve 1.30 tpd of VOC reductions in 2015. *See* Contingency Measure SIP at 12–13, 17 and 2013 Supplement, Attachment 2.[14]

EPA approved the SO_X RECLAIM Shave into the California SIP on August 12, 2011. *See* 76 FR 50128. Because all of the SO_X emission reductions associated with these rule improvements have already been credited toward the $PM_{2.5}$ attainment demonstration as part of EPA's November 9, 2011 final action on the South Coast $PM_{2.5}$ SIP, the 1.10 tpd of SO_X reductions identified in the Contingency Measure SIP are not surplus to attainment requirements and, therefore, cannot be treated as contingency measures. *See* 76 FR 41562 at 41569, Table 3 (July 14, 2011) and 76 FR 69928 at 69948, Table 1 (November 9, 2011).

EPA has also approved SCAQMD Rule 1113 (Architectural Coatings) into the California SIP. 78 FR 18244 (March 26, 2013). The 1.30 tpd of 2015 VOC reductions associated with this measure in the Contingency Measure SIP are not relied on for RFP or attainment purposes in the South Coast $PM_{2.5}$ SIP. *See* South Coast 2007 AQMP at pp. 4–10, Table 4–2A; *see also* 76 FR 41562 at 41569, Table 3 (July 14, 2011) and 76 FR 69928 at 69948, Table 1 (November 9, 2011). EPA therefore agrees with the District that Rule 1113 may serve as an attainment contingency measure for purposes of the $PM_{2.5}$ NAAQS.

Additionally, the 2013 Supplement identifies two new stationary source control measures scheduled for adoption in May 2013 that are expected to collectively achieve 0.6 tpd of direct $PM_{2.5}$ emission reductions in 2015. *See* 2013 Supplement, Attachment 2 (identifying SCAQMD Rule 444 and Rule 445). The 0.6 tpd of direct $PM_{2.5}$ emission reductions associated with these two measures in the Contingency Measure SIP are not relied on for RFP or attainment purposes in the South Coast $PM_{2.5}$ SIP. *See* 76 FR 41562 at 41569, Table 3 (July 14, 2011) and 76 FR 69928 at 69948, Table 1 (November 9, 2011). On May 3, 2013, the District adopted both measures and CARB submitted them to EPA on June 12, 2013. In a separate notice published in today's **Federal Register,** EPA is proposing to approve these rules into the California SIP. *See* ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District,'' pre-publication proposed rule signed June 12, 2013.

Finally, the Contingency Measures SIP states that an additional 17.6 tpd of NO_X reductions, 4.5 tpd of VOC reductions, and 1.1 tpd of SO_X reductions will be achieved in 2015 through continued implementation of the District's 2007 Ozone Attainment Plan, and that these ''backstop'' emission reductions provide the equivalent of contingency measures for the South Coast $PM_{2.5}$ SIP. *See* Contingency Measures SIP at 10–11 and Table 3. Although control measures relied upon in an ozone attainment plan

[10] Emissions in the area were well below both the 2012 RFP benchmarks that EPA approved as part of the South Coast $PM_{2.5}$ SIP (see 76 FR 41578, Table 8, ''revised projected controlled emissions levels'' for 2012) and the RFP ''targets'' listed in Attachment 1 of the 2013 Supplement, identified as ''linear benchmarks'' in the plan. *See* CARB 2011 Progress Report (Hearing Date: April 28, 2011), at Table C–2.

[11] For a more detailed discussion of the air quality data that EPA evaluated, see Section III.B.2.c, *infra* (''$PM_{2.5}$ air quality data'').

[12] Consistent with CAA section 172(c)(1) and 40 CFR 51.1007(b), the South Coast $PM_{2.5}$ SIP provides for the implementation of all control measures needed for attainment as expeditiously as practicable and no later than the beginning of the year prior to the attainment date (*i.e.,* by January 2014). *See* 76 FR 69928 at 69942 (November 9, 2011).

[13] *See* n. 2, *supra.*

[14] The Contingency Measures SIP identifies emission reductions for 2014 but in the 2013 Supplement, the District provided updated 2015 emission reductions for Rule 1113 and several other measures. *See* 2013 Supplement, Attachment 2.

may qualify for approval as contingency measures for the $PM_{2.5}$ NAAQS, provided the measures are surplus to $PM_{2.5}$ attainment and RFP requirements and meet all other EPA criteria for SIP approval, the Contingency Measures SIP does not provide EPA with sufficient information to determine whether the referenced ozone-related measures meet these approval criteria. Accordingly, we cannot at this time propose to approve these ''backstop'' ozone-related measures as $PM_{2.5}$ contingency measures at this time.

In sum, taking into account surplus emission reductions in the South Coast $PM_{2.5}$ SIP that EPA previously identified as available for contingency measure purposes, the total amount of emission reductions from regulatory control measures that we are proposing to approve as part of the Contingency Measures SIP are as follows: 24 tpd of NO_X reductions from fleet turnover; 14.3 tpd of VOC reductions from fleet turnover and SCAQMD Rule 1113; and 0.6 tpd of direct $PM_{2.5}$ emission reductions from SCAQMD Rule 444 and Rule 445, which will be available for contingency purposes upon final EPA approval of these rules into the SIP. *See* Table 4.

b. Voluntary Measures, Incentive Programs, and Miscellaneous ''Excess Reductions''

The Contingency Measures SIP identifies several voluntary measures and incentive programs that the District believes should qualify for approval as $PM_{2.5}$ contingency measures because emission reductions achieved by these measures have not been accounted for in the South Coast $PM_{2.5}$ SIP. The submittal also identifies certain miscellaneous ''excess reductions'' resulting from economic conditions and source operations below permit limits, which the District believes should qualify for approval as contingency measures. We discuss each of these programs/measures and our evaluations below.

Carl Moyer Memorial Air Quality Standards Attainment Program

The Contingency Measures SIP identifies a portion of the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) as a contingency measure for the $PM_{2.5}$ NAAQS. *See* Contingency Measures SIP at 14 and 17, Table 4 and 2013 Supplement, Attachment 2. We are proposing to approve specific amounts of emission reductions from the Carl Moyer Program, as identified in the District's submissions, for this purpose.

The Carl Moyer Program is a California grant program established in 1998 that provides funding to encourage the voluntary purchase of cleaner-than-required engines, equipment, and other emission reduction technologies. *See generally* California Air Resources Board, ''The Carl Moyer Program Guidelines, Approved Revisions 2011,'' Release Date: February 8, 2013, at Chapter 1 (*available electronically at http://www.arb.ca.gov/msprog/moyer/moyer.htm*). In its first 12 years, the Carl Moyer Program provided over $680 million in state and local funds to reduce air pollution emissions from equipment statewide, *e.g.,* by replacing older trucks with newer, cleaner trucks, retrofitting controls on existing engines, and encouraging the early retirement of older, more polluting vehicles. *Id.*

The Contingency Measures SIP, as supplemented in 2013, states that certain Carl Moyer Program projects funded beginning in program year 2005–06 to program year 2009–2010 will provide 3.2 tpd of NO_X reductions and 0.2 tpd of $PM_{2.5}$ reductions in 2015 that may be treated as contingency measures. *See* Contingency Measures SIP at 14 and 17, Table 4 and 2013 Supplement, Attachment 2 (''2015 Emission Reductions Beyond 2007 AQMP SIP Commitment Available for Contingency'').[15] In the 2013 Supplement, the District clarified that these emission reductions would be obtained from the following source categories participating in Carl Moyer programs: on-road heavy duty engines, off-road diesel equipment, marine engines, and locomotive engines. *See* 2013 Supplement, Attachment 2, notes.

Under EPA's long-standing policy, voluntary mobile source emission reduction programs (VMEPs) that meet certain minimum criteria may qualify for a limited amount of SIP credit under the CAA. *See generally* Memorandum dated October 24, 1997 from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, Regions 1–10, entitled ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs)'' (hereinafter ''1997 VMEP''). To qualify for SIP credit, a VMEP must be consistent with SIP attainment and RFP requirements and must achieve emission reductions that are quantifiable, surplus, enforceable, and permanent. *See* 1997 VMEP at 6, 7. Additionally, the VMEP submission must be accompanied by sufficient technical support for EPA to determine that the statutory criteria for approval are met—*e.g.,* procedures designed to compare projected emission reductions with actual emissions reductions achieved; State commitments to monitor, assess, and report on program implementation and actual emission reductions achieved; and procedures for the State to remedy emission reduction shortfalls in a timely manner. *Id.* The State must also demonstrate that it has adequate personnel and program resources to implement the program and that the VMEP does not interfere with other requirements of the Act. *Id.* EPA has generally limited the amount of emission reductions allowed for VMEPs in a SIP to three percent (3%) of the total projected future year emission reductions required to attain the relevant NAAQS, and with respect to any particular SIP submittal to demonstrate attainment or maintenance of the NAAQS or progress toward attainment (RFP), 3% of the specific statutory requirement. *Id.* at 5.

Consistent with these criteria, the SCAQMD submitted an enforceable commitment in 2007 to take ''all actions necessary to ensure that emission reductions resulting from projects funded by the Carl Moyer Program will meet U.S. EPA criteria (surplus, quantifiable, enforceable, and permanent for life of project) and requirements for SIP creditability to meet federal Clean Air Act requirements.'' *See* South Coast AQMD Board Resolution No. 07–9, dated June 1, 2007 (adopting South Coast 2007 AQMP) (''2007 Resolution''). Specifically, the 2007 Resolution includes the District's commitments to: (1) Calculate emission reductions from Carl Moyer Program projects using established quantification protocols specified in the applicable Carl Moyer Program Guidelines; (2) verify surplus emission reductions through a comprehensive inspection, monitoring and reporting program for each project funded by the Carl Moyer Program, (3) conduct onsite inspections, random audits, and other monitoring activities to ensure that funded projects are implemented according to contract terms; (4) submit reports to EPA by November 30 of each calendar year, verifying the amounts of actual emission reductions achieved by the Carl Moyer Program grants for the preceding funding cycle, and (5) take specific actions to remedy any shortfalls in

[15] The Contingency Measures SIP, as initially submitted in November 2011, provides emission reductions for 2014 (4.43 tpd of NO_X reductions, 0.06 tpd of PM reductions, and 0.17 tpd of VOC reductions), but we are evaluating the updated 2015 emission reductions provided in the 2013 Supplement because 2015 is the relevant year for attainment contingency measure purposes.

emission reductions, to ensure that contracted emission reductions occur. *Id.* The District also submitted technical support documentation describing the Carl Moyer Program, the District's policies for implementing the program, and the methodologies for predicting emissions benefits. *See generally* South Coast 2007 AQMP, Appendix IV–B–3, ''District Implementation of the Carl Moyer Memorial Air Quality Standards Attainment Program,'' *available electronically at https://www.aqmd.gov/aqmp/07aqmp/aqmp/Appendix_IV-B-3_section1.pdf.*

EPA approved these District commitments into the California SIP as part of our November 2011 final action on the South Coast $PM_{2.5}$ SIP, thereby making the commitments federally enforceable. *See* 76 FR 69928 at 69954 (November 9, 2011) and 40 CFR 52.220(c)(398)(ii)(A)(*2*) (codifying SCAQMD commitment ''to fulfill USEPA Requirements for the use of emissions reductions [from] the Carl Moyer Program in the State Implementation Plan, June 1, 2007''). EPA also approved the District's technical documentation describing the Carl Moyer Program as part of the South Coast $PM_{2.5}$ SIP. *See* 40 CFR 52.220(c)(398)(ii)(A)(*1*). In the 2013 Supplement, the District affirmed its SIP-approved commitments to ''take all actions necessary to assure that emissions reductions resulting from the projects funded by the Carl Moyer Program will meet U.S. EPA criteria . . . and requirements for SIP creditability,'' including its obligation to prepare and submit annual reports to EPA by November 30 of each year identifying actual emission reductions achieved compared to predicted emissions reductions and audit information for each grant issued. *See* letter dated April 24, 2013, from Elaine Chang, Deputy Executive Officer, SCAQMD, to Deborah Jordan, Air Division Director, U.S. EPA Region 9, transmitting 2013 Supplement.

The SIP-approved commitments in the 2007 Resolution enable the District to quantify the emission reductions attributed to the Carl Moyer Program, verify that those emission reductions are surplus to other CAA requirements, enforce the conditions of the Carl Moyer Program grants to ensure that contracted emission reductions are achieved, and monitor the continuing implementation of program grants to ensure that emission reductions are ''permanent'' throughout the life of each project. The 3.2 tpd of NOx reductions and 0.2 tpd of $PM_{2.5}$ reductions attributed to the Carl Moyer Program in 2015 for contingency measure purposes each amount to less than 2% of the total projected emission reductions of each pollutant needed to attain the $PM_{2.5}$ NAAQS in the South Coast area.[16] Finally, information provided in the South Coast 2007 AQMP demonstrates that the District has adequate personnel and program resources to implement the Carl Moyer Program. *See generally,* South Coast 2007 AQMP, Appendix IV-B-3, ''District Implementation of the Carl Moyer Memorial Air Quality Standards Attainment Program,'' at Section 1, *available electronically at https://www.aqmd.gov/aqmp/07aqmp/aqmp/Appendix_IV–B–3_section1.pdf.*

Based on our evaluation of the District's enforceable SIP commitments regarding the Carl Moyer Program and technical documentation provided by the District in its SIP submissions, we propose to find that the 2015 emission reductions associated with the Carl Moyer Program in the Contingency Measures SIP, as supplemented in 2013, satisfy the statutory criteria for SIP credit for contingency measure purposes. The Carl Moyer Program procedures have served as models for the design of national, state, and local credit validation systems for mobile source subsidy programs, and California continuously refines these guidelines to accurately reflect the reductions associated with the program subsidies. The procedures address emission reduction quantification issues associated with both baseline emissions and the amount of reductions achievable from the various repower, retrofit, and replacement technologies and alternative fuel options, as well as issues associated with project life and enforceable requirements to ensure that reductions continue within the nonattainment area.

Given all of these considerations, we propose to approve these Carl Moyer Program emission reductions as attainment contingency measures for the $PM_{2.5}$ NAAQS. Upon EPA's final approval of the Contingency Measures SIP, the District will be obligated to monitor, assess, and report to EPA on implementation of the Carl Moyer Program with respect to the four specific source categories identified in the 2013 Supplement (on-road heavy duty engines, off-road diesel equipment, marine engines, and locomotive engines). *See* 2013 Supplement, Attachment 2. Additionally, should EPA subsequently determine that the South Coast area has failed to attain the $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2015, the District will be obligated to verify through its next annual report to EPA whether the 3.2 tpd of NOx reductions and 0.2 tpd of $PM_{2.5}$ reductions identified in the 2013 Supplement occurred in 2015, and if not, to take specific actions to remedy any emission reduction shortfalls consistent with its SIP-approved commitments in 40 CFR 52.220(c)(398)(ii)(A)(*2*). We are proposing to approve these Carl Moyer Program emission reductions for the sole purpose of satisfying the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 $PM_{2.5}$ NAAQS in the South Coast.

Other Voluntary Measures and Incentive Programs

The Contingency Measures SIP identifies several other voluntary measures and incentive programs that the District believes should qualify for approval as $PM_{2.5}$ attainment contingency measures.[17] For the reasons provided below, these programs do not qualify for approval as contingency measures at this time.

First, the submittal states that the ''average vehicle ridership'' (AVR) portion of SCAQMD Rule 2202 (On-Road Mobile Source Vehicle Mitigation Options) requires employers with 250 or more employees to develop rideshare programs or help fund an air quality improvement program to achieve equivalent emissions reductions to meet the AVR target. Contingency Measures SIP at 13. The District states that this measure will achieve 1.32 tpd of NO_X reductions and 0.06 tpd of direct $PM_{2.5}$ reductions in 2014 beyond those relied

[16] The South Coast $PM_{2.5}$ SIP projects that the total amounts of emission reductions needed to attain the $PM_{2.5}$ NAAQS, from a 2002 base year to a 2014 attainment year, are as follows: 633 tpd of NOx reductions, 370 tpd of VOC reductions, 13 tpd of direct $PM_{2.5}$ reductions, and 33 tpd of SOx reductions. *See* 76 FR 69928 at 69950, Table 4 (November 9, 2011) and Final TSD at 97 (Table F–9). Thus, the Carl Moyer Program reductions identified in the Contingency Measures SIP amount to approximately 0.5 percent of the NOx reductions and 1.5 percent of the $PM_{2.5}$ reductions needed for timely attainment of the $PM_{2.5}$ NAAQS. The Contingency Measures SIP provides these Carl Moyer Program emission reductions for the sole purpose of fulfilling the requirements for contingency measures in CAA section 172(c)(9) and not for the purposes of demonstrating attainment or maintenance of the NAAQS or progress toward attainment (RFP).

[17] According to the District, all but one of these measures will achieve surplus emission reductions in both 2012 and 2014 and may, therefore, serve both as 2012 RFP contingency measures and as attainment contingency measures. As explained above in Section III.B.1, EPA is not evaluating the 2012 emission reduction estimates that the District provided for each of these measures, given our proposal to conclude that the 2012 RFP contingency measure requirement is now moot for this area. *See* n. 6, *supra.* We therefore evaluate only the emission reduction estimates associated with these measures for attainment contingency measure purposes (*i.e.,* for 2015), as provided in the 2013 Supplement.

on for attainment, and that the measure could therefore serve as an attainment contingency measure. *Id.* at 17, Table 4. EPA does not currently have sufficient information to evaluate the emission reductions associated with this measure as the State has not submitted the measure or any supporting documentation to EPA. Thus, we cannot propose to approve this measure as a contingency measure at this time.

Second, the submittal states that the AB 2766 program provides annual funding to local governments in the South Coast air basin to reduce mobile source emissions and that the SCAQMD submits annual reports about the emission reductions under AB 2766 to CARB. Contingency Measures SIP at 13. The District states that this measure will achieve 1.90 tpd of NO_X reductions and 0.30 tpd of direct $PM_{2.5}$ reductions in 2014 beyond those relied on for attainment, and that this measure could therefore serve as an attainment contingency measure. *Id.* at 17, Table 4. EPA does not currently have sufficient information to evaluate the emission reductions associated with this measure as the State has not submitted the measure or any supporting documentation to EPA. Thus, we cannot approve this measure as a contingency measure at this time.

Third, the submittal states that the Ports of Los Angeles and Long Beach (POLA/POLB) have been facilitating use of shore-side power as part of the San Pedro Bay Ports Clean Air Action Plan (referred to as the ''Ocean-Going Vessel At-Berth''), and that these measures reduce emissions further than those achieved by a statewide (CARB) regulation that requires a percentage of certain ocean-going vessels (OGVs) to use shore-side power while at berth. Contingency Measures SIP at 14. The District states that these POLA/POLB measures will achieve 3.3 tpd of NO_X reductions and 0.06 tpd of direct $PM_{2.5}$ reductions in 2014 beyond those relied on for attainment, and that the measures may therefore serve as attainment contingency measures. *Id.* at 17, Table 4. EPA does not currently have sufficient information to evaluate the emission reductions associated with these measures as the State has not submitted the measures or any supporting documentation to EPA. Thus, we cannot approve these measures as contingency measures at this time.

Finally, the submittal states that early implementation of certain provisions of the ''SCAQMD Surplus Off-Road Opt-In for NO_X'' (SOON) program, adopted by the SCAQMD in May 2008, will achieve 0.30 tpd of $PM_{2.5}$ emission reductions in 2014 beyond those relied on for attainment, and that this program could therefore serve as an attainment contingency measure. Contingency Measures SIP at 15 and 17, Table 4. CARB submitted this measure (Rule 2449) to EPA on July 18, 2008 but EPA has not yet taken any action on it. Thus, we cannot propose to approve this measure as a contingency measure at this time.

EPA is currently working with the State and districts to develop reliable processes for documenting the emission reductions associated with voluntary and incentive programs for SIP purposes. The goal is to develop processes that ensure that the emission reductions resulting from voluntary and incentive programs are surplus, quantifiable, enforceable and permanent consistent with the Act as interpreted in EPA guidance. EPA strongly encourages CARB and the SCAQMD to continue implementing effective incentive programs and voluntary measures as part of their strategies for meeting air quality goals and to continue discussing with EPA the potential incorporation of these incentive programs and measures into SIP planning processes going forward. We welcome public comments on how to ensure that emission reductions resulting from these programs meet the Act's requirements for SIP credit.

Miscellaneous ''Excess Reductions''

The Contingency Measures SIP states that permitted sources in the South Coast area often achieve ''excess reductions'' beyond those assumed in the SIP. For example, the District states that sources typically emit at levels well below allowable levels to maintain adequate compliance margins, or they may comply with stringent control standards through preconstruction review processes that reduce emissions below the levels assumed in the SIP. Contingency Measures SIP at 15. Furthermore, the District states that the recent recession in the region ''would further lower the growth projections that were previously assumed in the 2007 $PM_{2.5}$ SIP.'' *Id.* The District states that these factors combined caused significantly lower emissions in 2010 compared to the levels projected for that year in the South Coast $PM_{2.5}$ SIP. *Id.* According to the District, these circumstances will result in approximately 6.42 tpd of NO_X reductions, 0.45 tpd of $PM_{2.5}$ reductions, and 8.75 tpd of VOC reductions in 2014 beyond the reductions relied on for attainment, which collectively equate to about 14 tpd of ''NO_X equivalent'' emission reductions for that year. *Id.* at 15 and 17, Table 4.

We disagree with these statements. Emission reductions that occur as a result of business decisions to maintain adequate compliance margins or due to an unexpected economic recession are not approvable as contingency measures unless such reductions are quantifiable, surplus, enforceable, and permanent and meet all applicable CAA requirements for approval. Even assuming the ''excess'' emission reductions identified in the Contingency Measures SIP are in fact surplus to those that are specifically relied upon in the South Coast $PM_{2.5}$ SIP for attainment purposes, these reductions are not SIP-creditable without adequate documentation to show that the reductions are also quantifiable, enforceable, and permanent consistent with long-standing EPA policy. The Contingency Measures SIP provides no such documentation. Accordingly, the ''excess'' reductions associated with 14 tpd of ''NOx equivalent'' emission reductions in 2015 are not SIP-creditable at this time.

c. $PM_{2.5}$ Air Quality Data

The Contingency Measures SIP provides the District's rationale for concluding that significant $PM_{2.5}$ air quality improvements in the South Coast area should be accounted for in evaluating the attainment contingency measure requirement for the area. *See* Contingency Measures SIP at 5–11. Based on our review of the District's analyses and our independent review of available $PM_{2.5}$ air monitoring data for the 2002–2012 period, EPA agrees that these air quality improvements should be taken into account in evaluating the level of emission reductions needed for purposes of meeting the attainment contingency measure requirement under CAA section 172(c)(9). Although these air quality improvements do not, in themselves, represent SIP-creditable emission reductions, we believe the significant decline in ambient $PM_{2.5}$ levels observed during the 2002–2012 period provides a reasonable basis for concluding that emission reductions amounting to less than 1 year's worth of RFP are adequate for $PM_{2.5}$ attainment contingency measure purposes in this particular nonattainment area.

Under EPA regulations at 40 CFR 50.7, the 1997 annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 15.0 $\mu g/m^3$ at all relevant monitoring sites in the subject area. The 1997 24-hour primary and secondary $PM_{2.5}$ standards are met when the 98th percentile 24-

hour concentration, also as determined in accordance with appendix N, is less than or equal to 65 μg/m³ at all relevant monitoring sites. 40 CFR 50.7(b), (c).

EPA independently reviewed $PM_{2.5}$ air quality data available in EPA's ''Air Quality System'' (AQS) for the 2002–2012 period to assess the District's representations regarding $PM_{2.5}$ air quality improvements in the South Coast area.[18] The SCAQMD currently operates 20 regulatory $PM_{2.5}$ monitoring sites in the South Coast air basin and annually reports quality-assured ambient $PM_{2.5}$ data from these sampling sites to the EPA AQS database. *See* SCAQMD, Annual Air Quality Monitoring Network Plan (July 2012), at 7–9 and 21, Table 5. EPA has approved the District's monitoring network as satisfying the network design and data adequacy requirements of 40 CFR part 58. *See* letter dated April 18, 2013, from Matthew Lakin, Manager, Air Quality Analysis Office, EPA Region 9, to Dr. Matt Miyasato, Deputy Executive Officer, Science and Technology Advancement, SCAQMD. Quality-assured and certified ambient air quality data collected through the District's monitoring network and available in AQS show that $PM_{2.5}$ levels in the South Coast nonattainment area were significantly lower in the years leading to 2012 than the levels projected in the South Coast $PM_{2.5}$ SIP for this period, and that both annual and 24-hour concentrations have declined significantly at all monitors in the area. *See* U.S. EPA, Air Quality System, Preliminary Design Value Report, $PM_{2.5}$, 2002–2012 (Report Date: May 10, 2013); *see also* U.S. EPA, Data Quality Indicator Report, SCAQMD, California, $PM_{2.5}$ (April 26, 2012) and letter dated May 1, 2012, from Chung Liu, Deputy Executive Officer, Science and Technology Advancement, SCAQMD, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region 9 (certifying air quality data submitted to AQS).

Table 1 lists the annual mean $PM_{2.5}$ concentration at each monitor in the South Coast air basin during the 2002–2012 period.

TABLE 1—$PM_{2.5}$ ANNUAL MEAN CONCENTRATIONS, 2002–2012

Site	AQS ID	One-year annual mean (μg/m³)										
		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Azusa	060370002	20.7	19.3	18.3	17.0	15.4	15.7	14.0	13.1	10.8	12.1	11.0
Burbank—Palm Ave.	060371002	24.0	22.1	19.1	17.8	16.5	16.9	13.9	15.3	12.8	13.5	12.6
LA—North Main	060371103	22.0	21.3	19.7	17.8	15.6	16.8	16.1	14.4	12.6	13.5	13.2
Reseda	060371201	18.9	16.5	15.7	13.9	12.8	13.3	11.8	11.4	10.1	10.2	10.5
Lynwood	060371301	23.3	20.3	18.5	17.5	16.7	16.0	14.6	.....	.....	.....	.....
Compton	060371302	.....	.....	.....	.....	.....	.....	12.4	14.7	12.5	12.5	11.7
Pico Rivera #1	060371601	24.0	20.6	20.0	15.2	.....	.....	.....	.....	.....	.....	.....
Pico Rivera #2	060371602	.....	.....	.....	22.3	16.6	16.6	14.9	14.8	12.5	12.5	11.9
Pasadena	060372005	20.3	18.6	16.6	15.1	13.4	14.4	12.8	12.3	10.2	10.8	10.1
Long Beach	060374002	19.5	18.0	17.9	15.9	14.1	14.6	14.1	12.8	10.4	11.3	10.6
Long Beach—PCH	060374004	.....	20.6	16.5	14.7	14.4	13.7	13.7	12.5	10.4	10.7	10.9
Anaheim	060590007	18.6	17.3	17.0	14.7	14.0	14.4	13.1	12.1	10.5	11.1	10.0
Mission Viejo	060592022	15.5	13.1	12.0	10.6	11.0	11.1	10.4	9.5	8.0	8.5	7.9
Riverside	060651003	27.1	22.6	20.8	17.9	16.9	18.3	13.3	13.3	11.0	11.8	11.4
Rubidoux	060658001	27.5	24.8	22.1	20.9	18.9	19.0	16.4	15.6	13.3	13.8	13.7
Mira Loma	060658005	.....	.....	.....	.....	20.8	20.9	18.3	17.2	15.5	15.9	15.3
Ontario	060710025	25.4	23.8	20.9	18.8	18.4	18.3	15.8	14.7	13.0	13.3	12,4
Fontana	060712002	24.3	22.1	19.9	18.8	17.5	18.9	15.3	14.2	11.9	12.6	12.8
Big Bear	060718001	11.5	10.6	9.6	12.0	11.3	10.3	9.1	9.9	8.4	8.4	8.0
San Bernardino	060719004	25.8	22.2	21.9	17.3	17.6	17.9	13.4	13.0	11.1	12.2	11.8

Source: U.S. EPA, Air Quality System, Preliminary Design Value Report, $PM_{2.5}$, 2002–2012 (Report Date: May 10, 2013).

Table 2 lists the annual $PM_{2.5}$ design value at each monitor in the South Coast air basin for the 2002–2012 period.

TABLE 2—ANNUAL $PM_{2.5}$ DESIGN VALUES, 2002–2012

Site	AQS ID	One-year annual mean (μg/m³)[19]										
		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Azusa	060370002	20.8	20.6	19.4	18.2	16.9	16.0	15.1	14.3	12.7	12.0	11.3
Burbank—Palm Ave.	060371002	23.3	23.6	21.7	19.7	17.8	17.1	15.8	15.4	14.0	13.9	12.9
LA—North Main	060371103	22.2	22.0	21.0	19.6	17.7	16.7	16.1	15.8	14.4	13.5	13.1
Reseda	060371201	18.4	17.9	17.0	15.4	14.1	13.3	12.6	12.1	11.1	10.6	10.3
Lynwood	060371301	23.6	22.7	20.7	18.7	17.5	16.7	15.8	15.3	14.6	.....	.....
Compton	060371302	.....	.....	.....	.....	.....	.....	12.4	13.5	13.2	13.4	12.4
Pico Rivera #1	060371601	24.4	23.3	21.5	18.6	17.6	15.2	.....	.....	.....	.....	.....
Pico Rivera #2	060371602	.....	.....	.....	22.3	19.5	18.5	16.0	15.4	14.1	13.3	12.3
Pasadena	060372005	20.2	19.9	18.5	16.8	15.0	14.3	13.5	13.2	11.8	11.1	10.4
Long Beach	060374002	20.1	19.6	18.5	17.3	16.0	14.9	14.3	13.9	12.4	11.5	10.8
Long Beach—PCH	060374004	.....	20.6	18.6	17.3	15.2	14.3	13.9	13.3	12.2	11.2	10.7
Anaheim	060590007	22.0	20.4	17.6	16.3	15.2	14.3	13.8	13.2	11.9	11.2	10.8
Mission Viejo	060592022	15.4	14.8	13.5	11.9	11.2	10.9	10.8	10.3	9.3	8.7	8.1
Riverside	060651003	26.9	25.9	23.5	20.5	18.6	17.7	16.2	15.0	12.5	12.0	11.4

[18] EPA evaluated these data only preliminarily, for purposes of determining whether the Contingency Measures SIP satisfies the requirements of CAA section 172(c)(9), and is not at this time proposing to make any formal determination regarding attainment for the South Coast $PM_{2.5}$ nonattainment area.

[19] Most but not all of these design values are based on data that meet EPA's completeness criteria in 40 CFR part 50, appendix N, section 4.0. *See* Memorandum from Meredith Kurpius to File dated May 10, 2013.

TABLE 2—ANNUAL $PM_{2.5}$ DESIGN VALUES, 2002–2012—Continued

Site	AQS ID	One-year annual mean (μg/m³)[19]										
		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Rubidoux	060658001	28.9	27.8	24.8	22.6	20.6	19.6	18.1	17.0	15.1	14.2	13.6
Mira Loma	060658005	.....	.....	.....	.....	20.8	20.9	20.0	18.8	17.0	16.2	15.6
Ontario	060710025	25.3	25.2	23.4	21.2	19.4	18.5	17.5	16.2	14.5	13.7	12.9
Fontana	060712002	24.6	23.8	22.1	20.3	18.7	18.4	17.2	16.1	13.8	12.9	12.4
Big Bear	060718001	10.9	11.1	10.6	10.8	11.0	11.2	10.3	9.8	9.1	8.9	8.3
San Bernardino	060719004	25.9	24.7	23.3	20.5	18.9	17.6	16.3	14.7	12.5	12.1	11.7

Source: U.S. EPA, Air Quality System, Preliminary Design Value Report, $PM_{2.5}$, 2002–2012 (Report Date: May 10, 2013).

Table 3 lists the 24-hour $PM_{2.5}$ design value at each monitor in the South Coast air basin for the 2002–2012 period.

TABLE 3—24-HOUR $PM_{2.5}$ DESIGN VALUES, 2002–2012

Site	AQS ID	24-Hour Design Value (μg/m³)[20]										
		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Azusa	060370002	59	57	54	54	48	47	41	42	38	36	31
Burbank—Palm Ave.	060371002	69	62	55	53	48	48	43	41	34	34	32
LA—North Main	060371103	62	58	57	56	49	48	43	42	35	34	32
Reseda	060371201	51	49	48	45	40	34	30	29	29	28	30
Lynwood	060371301	60	57	53	51	49	46	41	39	33	.....	.....
Compton	060371302	.....	.....	.....	.....	.....	.....	13	25	28	34	31
Pico Rivera #1	060371601	65	58	53	51	52	51	.....	.....	.....	.....	.....
Pico Rivera #2	060371602	.....	.....	.....	58	51	50	43	41	35	33	31
Pasadena	060372005	53	51	48	46	41	40	37	38	31	30	27
Long Beach	060374002	54	48	46	45	41	39	38	38	33	30	28
Long Beach—PCH	060374004	.....	53	48	44	38	36	35	34	31	28	27
Anaheim	060590007	54	53	49	47	42	42	38	37	30	29	27
Mission Viejo	060592022	43	43	41	36	32	31	29	29	23	23	21
Riverside	060651003	65	62	58	50	47	49	48	44	33	30	27
Rubidoux	060658001	73	72	67	65	57	55	50	45	38	35	34
Mira Loma	060658005	62	.....	.....	.....	53	56	53	49	41	39	37
Ontario	060710025	62	63	61	59	50	47	45	43	37	34	32
Fontana	060712002	64	60	58	55	52	52	52	48	37	31	32
Big Bear	060718001	30	30	28	30	34	38	36	32	30	29	29
San Bernardino	060719004	68	64	66	58	55	54	53	49	35	32	30

Source: U.S. EPA, Air Quality System, Preliminary Design Value Report, $PM_{2.5}$, 2002–2012 (Report Date: May 10, 2013).

According to these certified ambient air quality data, the highest annual mean $PM_{2.5}$ concentration in the South Coast area dropped from 27.5 μg/m³ in 2002 (at Rubidoux) to 15.3 μg/m³ in 2012 (at Mira Loma), and the annual $PM_{2.5}$ design value for the area dropped from 28.9 μg/m³ to 15.6 μg/m³ during this same timeframe. Daily $PM_{2.5}$ design values at all monitors in the South Coast area also declined significantly, from 73 μg/m³ (at Rubidoux) in 2002 to 37 μg/m³ (at Mira Loma) in 2012. All monitors in the South Coast area have recorded 24-hour $PM_{2.5}$ design values below the 24-hour $PM_{2.5}$ standard of 65 μg/m³ since at least 2006, and as of 2010 most monitors were also recording 24-hour design values below the more stringent 2006 24-hour standard of 35 μg/m³.[21]

These data indicate that actual emission levels in the area during the years leading to 2012 were significantly lower than the levels projected for this period in the South Coast $PM_{2.5}$ SIP. The data also indicate that the area is already attaining the 1997 24-hour $PM_{2.5}$ standard (65 μg/m³) and may also attain the annual standard (15 μg/m³) in advance of the applicable attainment date of April 5, 2015. Accordingly, compared to the assumptions underlying the South Coast $PM_{2.5}$ SIP, in reality the likelihood that attainment contingency measures will never need to be triggered is much greater, and the extent of any potential attainment shortfall much lower, than was predicted. Therefore, given the proximity of the applicable attainment date (April 5, 2015) and the probability that the area will attain the $PM_{2.5}$ standards by that date[22] or, in the event it fails to attain, that a smaller amount of additional emission reductions (compared to the levels identified in the plan as needed to achieve 1 year's worth of RFP) will be needed to bring about attainment in the area, we believe it is appropriate to find that emission reductions amounting to less than 1 year's worth of RFP are adequate to satisfy the attainment contingency measure requirement in these particular circumstances. This conclusion is consistent with EPA's long-standing recommendation that states should consider ''the potential nature and extent of any attainment shortfall for the area'' and that contingency measures ''should represent a portion of the actual emissions reductions necessary to bring about attainment in the area.'' *See* PM–10 Addendum at 42015 and 72 FR 20643.

d. Surplus emission reductions in South Coast $PM_{2.5}$ SIP

The Contingency Measures SIP states that the South Coast $PM_{2.5}$ SIP identified emission reductions sufficient for the

[20] *See ibid.*

[21] *See also* Final TSD for South Coast $PM_{2.5}$ SIP at 8, Figure IB–3 (''South Coast AQMP 1997 24-hour $PM_{2.5}$ Design Value Concentration Trends 2000–2010'').

[22] EPA is not aware of any information indicating significant changes (such as a sharp upturn in economic or population growth, or dramatic meteorological shift) that might adversely affect the consistent historical trend in the area to improved air quality, during the relatively short amount of time remaining before April 5, 2015.

South Coast air basin to reach 15.00 μg/m³ by April 2015, which is more than necessary to demonstrate timely attainment according to EPA modeling guidelines. Specifically, the District states that EPA guidelines allow states to demonstrate attainment at a level of 15.04 μg/m³ rather than 15.00 μg/m³, and that the additional 0.04 μg/m³ of air quality improvement accounted for in its attainment demonstration equated to a ''surplus'' of 11 tpd of NO_X-equivalent emission reductions. *See* Contingency Measures SIP at 15. In the 2013 Supplement, the District characterized this amount as a ''surplus'' of 0.8 tpd of SO_X reductions, in accordance with conversion factors provided in Appendix C of a CARB Staff Report entitled ''2007 State Implementation Plan for the South Coast Air Basin $PM_{2.5}$ and 8-Hour Ozone NAAQS.'' *See* 2013 Supplement, Attachment 2.

EPA agrees that the District may demonstrate attainment using 15.04 μg/m³ as the target emission level in its modeling analyses [23] and that, because the South Coast $PM_{2.5}$ SIP models attainment at a level of 15.0 μg/m³, some amount of emission reductions accounting for the additional 0.04 μg/m³ of air quality improvement may be characterized as ''surplus'' to attainment needs. We are not equating these air quality improvements with a specific amount of SIP credit at this time but we have reviewed the District's conversions of these concentrations into NO_X-equivalent and SO_X-equivalent emission reductions and find the approximations to be reasonable. *See* Memorandum from Carol Bohnenkamp to File dated May 30, 2013. These analyses generally support our conclusion that attainment contingency measures achieving less than 1 year's worth of RFP are adequate for this particular nonattainment area.

e. Summary

In sum, the Contingency Measure SIP, as supplemented in 2013, identifies SIP-creditable attainment contingency measures that will achieve a total of 27.2 tpd of NO_X reductions, 14.3 tpd of VOC reductions, and 0.2 tpd of direct $PM_{2.5}$ reductions in 2015. The 2013 Supplement identifies two additional control measures that will, upon final EPA approval of the measures, achieve an additional 0.6 tpd of direct $PM_{2.5}$ reductions, for a total of 0.8 tpd of direct $PM_{2.5}$ reductions in 2015. These emission reductions amount to approximately 56% of the NO_X reductions, 49% of the VOC reductions, and more than 100% of the direct $PM_{2.5}$ reductions that would be needed to achieve approximately 1 year's worth of RFP in 2015.[24] *See* Table 4.

TABLE 4—SUMMARY OF 2015 EMISSION REDUCTIONS CREDITABLE AS ATTAINMENT CONTINGENCY MEASURES

[in tons per day]

	NO_X	VOC	$PM_{2.5}$	SO_X
Fleet turnover	24	13		
Rule 1113		1.3		
Carl Moyer	3.2		0.2	
Rule 444 *			0.2	
Rule 445 *			0.4	
Total Emission Reductions:	27.2	14.3	0.8	0
1 year RFP [25]	49	29	0.7	3.8
Total as percentage of 1-year RFP	56	49	114	0

* Creditable only upon EPA's final approval of these rules into the SIP pursuant to CAA section 110.

We are proposing to fully approve these measures and surplus emission reductions as satisfying the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 $PM_{2.5}$ NAAQS in the South Coast nonattainment area. All of these emission reductions are provided by control measures or incentive programs that are fully adopted under State law and currently being implemented by the District. These measures and programs provide SIP-creditable emission reductions that are not relied on in the South Coast $PM_{2.5}$ SIP to demonstrate RFP or attainment and provide for an appropriate level of continued emissions reduction progress should the South Coast area fail to attain by the statutory attainment date and necessitate additional planning.

C. Section 110(l) of the Act

Section 110(l) of the Act prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the Act. The Contingency Measures SIP corrects SIP deficiencies identified in EPA's November 9, 2011 partial approval and partial disapproval of the South Coast $PM_{2.5}$ SIP (76 FR 69928). Specifically, the Contingency Measures SIP, as supplemented in 2013, contains: (1) the District's demonstration that actual emission levels in the South Coast in 2012 were below the 2012 RFP benchmarks, (2) identification of SIP-creditable control measures that will achieve emission reductions in 2015 in excess of those relied on for RFP and expeditious attainment, and (3) an analysis of significant air quality improvements in the South Coast area that the District believes EPA should take into account as part of our action on the SIP submission. We propose to determine that our approval of the Contingency Measures SIP, as supplemented in 2013, would comply with CAA section 110(l) because the proposed SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the NAAQS are met, and the submitted SIP corrects SIP deficiencies that were the basis for EPA's November 9, 2011 partial disapproval of the South Coast $PM_{2.5}$ SIP.

IV. Proposed Action and Public Comment

For the reasons discussed above, we are proposing to conclude that the Contingency Measures SIP submitted by

[23] *See* ''Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze,'' April 2007, EPA—454/B–07–002, at p. 21 (referencing EPA's rounding convention in 40 CFR part 50, appendix N for calculation of annual average $PM_{2.5}$ values).

[24] The Contingency Measure SIP does not specifically provide SIP-creditable SO_X reductions in 2015 for contingency measure purposes.

[25] *See* n. 2, *supra*.

CARB on November 14, 2011, as supplemented on April 24, 2013, satisfies the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 $PM_{2.5}$ NAAQS in the South Coast nonattainment area, and to fully approve this submission into the California SIP. Simultaneously, we are proposing to conclude that the RFP contingency measure requirement in CAA section 172(c)(9) for the 2012 milestone year is moot as applied to the South Coast because the area achieved its emission reduction benchmarks for the 2012 RFP year.

Final approval of the Contingency Measures SIP, as supplemented, would correct the deficiencies that were the basis for EPA's partial disapproval of the South Coast $PM_{2.5}$ SIP on November 9, 2011 (76 FR 69928) and would, therefore, terminate the CAA section 179(b) sanctions clocks triggered by that action and the obligation on EPA to promulgate a FIP within two years of that action.

EPA will accept public comments on this proposal for the next 30 days.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: June 12, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2013–14918 Filed 6–21–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2013–0417; FRL–9827–2]

Approval and Promulgation of Air Quality Implementation Plans; Rescission of Federal Implementation Plan; Wyoming; Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions and additions to the Wyoming State Implementation Plan (SIP) submitted by the Wyoming Department of Environmental Quality (WDEQ) to EPA on March 8, 2013. The proposed SIP revision to the Wyoming Prevention of Significant Deterioration (PSD) program updates the program to regulate permitting of sources of greenhouse gases (GHGs). Specifically, we propose to approve revisions to Chapter 1, Common Provisions, Section 3, Definitions, and Chapter 6, Permitting Requirements, Section 4, Prevention of Significant Deterioration, and the addition of Chapter 1, Section 7, Greenhouse Gases. The March 8, 2013 proposed SIP revision to the Wyoming PSD program establishes emission thresholds for determining which new stationary sources and modifications to existing stationary sources become subject to Wyoming's PSD permitting requirements for their GHG emissions. The March 8, 2013 proposed SIP revision also defers until July 21, 2014 application of the PSD permitting requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources. EPA is proposing to approve the March 8, 2013 SIP revision to the Wyoming PSD permitting program as being consistent with federal requirements for PSD permitting. EPA is also proposing to rescind the GHG PSD Federal Implementation Plan (FIP) for Wyoming that was put in place to ensure the availability of a permitting authority for GHG PSD permitting in Wyoming, which would be effective upon final approval of the March 8, 2013 PSD SIP revision. EPA is proposing this action under section 110 and part C of the Clean Air Act (the Act or CAA).

DATES: Comments must be received on or before July 24, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2013–0417, by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email:* ostendorf.jody@epa.gov
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding

Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2013–0417. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Air Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129, (303) 312–7814, *ostendorf.jody@epa.gov*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Information is organized as follows:

Table of Contents

I. Background for Our Proposed Action
A. History of EPA's GHG-Related Actions
B. EPA's Biomass Deferral Rule
II. History of State Submittals
III. EPA's Analysis of the State's Submittal
IV. Proposed Action
V. Statutory and Executive Order Reviews

I. Background for Our Proposed Action

Clean Air Act (CAA) section 110(a)(2)(C) requires states to develop and submit to EPA for approval into the state SIP preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants. There are three separate programs: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and Minor NSR. The PSD program is established in part C of title I of the CAA and applies in areas that meet the National Ambient Air Quality Standards (NAAQS)—''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—''unclassifiable areas.'' The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—''nonattainment areas.'' The Minor NSR program (1) addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source thresholds and thus do not qualify as ''major'' and (2) applies regardless of the designation of the area in which a source is located. EPA regulations governing the criteria that states must satisfy for EPA approval of the NSR programs as part of the SIP are contained in 40 CFR sections 51.160—51.166.

Wyoming submitted on March 8, 2013 a collection of regulations for approval by EPA into the Wyoming SIP, including some regulations specific to the Wyoming PSD permitting program. The March 8, 2013 SIP submittal includes PSD permitting provisions that (1) Establish that GHG is a regulated pollutant under the PSD program, (2) establish emission thresholds for determining which new stationary sources and modification projects become subject to Wyoming's PSD permitting requirements for their GHG emissions consistent with the ''PSD and Title V Greenhouse Gas Tailoring Final Rule'' (75 FR 31514) hereafter referred to as the ''Tailoring Rule'', and (3) defer the application of the PSD requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources consistent with the EPA's final rule ''Deferral for CO_2 Emissions from Bioenergy and other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs'' (76 FR 43490). More details of the submittal are provided in sections II and III below.

Today's proposed action presents our rationale for approving these regulations as meeting the minimum federal requirements for the adoption and implementation of the PSD SIP permitting programs. In addition, Wyoming is currently subject to the GHG PSD FIP at 40 CFR 52.37(b)(2). See 75 FR 82246, December 10, 2010. We are also proposing to rescind the GHG PSD FIP for Wyoming when we approve Wyoming's submittal.

A. History of EPA's GHG-Related Actions

This section briefly summarizes EPA's recent GHG-related actions that provide the background for this action. Please see the preambles for the identified GHG-related rulemakings for more information.

Beginning in 2010, EPA undertook a series of actions pertaining to the regulation of GHGs that established the overall framework for today's final action on the Wyoming SIP. These actions include, as they are commonly called, the ''Endangerment Finding'' and ''Cause or Contribute Finding,'' which EPA issued in a single final action,[1] the ''Johnson Memo Reconsideration,''[2] the ''Light-Duty Vehicle Rule,''[3] and the ''Tailoring Rule.''[4] Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines;

[1] ''Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act.'' 74 FR 66496 (December 15, 2009).

[2] ''Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs.'' 75 FR 17004 (April 2, 2010).

[3] ''Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule.'' 75 FR 25324 (May 7, 2010).

[4] Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule.'' 75 FR 31514 (June 3, 2010).

determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources.

In December 2010, EPA promulgated several rules to implement the new GHG PSD SIP program. Recognizing that some states had approved SIP PSD programs that did not apply PSD to GHGs, EPA issued a SIP call on December 13, 2010, that would require those states to submit a SIP revision providing such authority.[5] The State of Wyoming, along with several other states, did not submit a corrective SIP revision to apply their CAA PSD programs to sources of GHG emissions by the established deadline. EPA published a finding of failure to submit the required SIP revision by the specified deadline and then promulgated the GHG PSD FIP to ensure the availability of a permitting authority for GHG emitting sources in Wyoming and the other states.[6] [7]

At the same time, EPA recognized that many other states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tons per year (tpy) of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule. Therefore, EPA issued the GHG PSD SIP Narrowing Rule,[8] under which, EPA converted its previous full approval of the affected SIPs to a partial approval and partial disapproval, to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the ''error correction'' provisions of CAA section 110(k)(6). Many of those states have since submitted SIP revisions that have established the Tailoring Rule thresholds, and EPA has approved those SIP revisions and rescinded the partial disapprovals.

B. EPA's Biomass Deferral Rule

On July 20, 2011, EPA promulgated the final ''Deferral for CO_2 Emissions from Bioenergy and other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs'' (Biomass Deferral Rule). Following is a brief discussion of the deferral. For a full discussion of EPA's rationale for the rule, see the notice of final rulemaking at 76 FR 43490.

The biomass deferral delays until July 21, 2014 the consideration of Carbon Dioxide (CO_2) emissions from bioenergy and other biogenic sources (hereinafter referred to as ''biogenic CO_2 emissions'') when determining whether a stationary source meets the PSD and Title V applicability thresholds, including those for the application of Best Available Control Technology (BACT). As with the Tailoring Rule, the Biomass Deferral addresses both PSD and Title V requirements. However, EPA is taking action on only Wyoming's PSD program as part of this action. Stationary sources that combust biomass (or otherwise emit biogenic CO_2 emissions) and construct or modify during the deferral period will avoid the application of PSD to the biogenic CO_2 emissions resulting from those actions. The deferral applies only to biogenic CO_2 emissions and does not affect non-GHG pollutants or other GHGs (e.g., methane (CH_4) and nitrous oxide (N_2O)) emitted from the combustion of biomass fuel. Also, the deferral only pertains to biogenic CO_2 emissions in the PSD and Title V programs and does not pertain to any other EPA programs such as the GHG Reporting Program. Biogenic CO_2 emissions are defined as emissions of CO_2 from a stationary source directly resulting from the combustion or decomposition of biologically-based materials other than fossil fuels and mineral sources of carbon. Examples of ''biogenic CO_2 emissions'' include, but are not limited to:

- CO_2 generated from the biological decomposition of waste in landfills, wastewater treatment or manure management processes;
- CO_2 from the combustion of biogas collected from biological decomposition of waste in landfills, wastewater treatment or manure management processes;
- CO_2 from fermentation during ethanol production or other industrial fermentation processes;
- CO_2 from combustion of the biological fraction of municipal solid waste or biosolids;
- CO_2 from combustion of the biological fraction of tire-derived fuel; and
- CO_2 derived from combustion of biological material, including all types of wood and wood waste, forest residue, and agricultural material.

The three-year deferral period was put in place as a temporary measure, to allow time for EPA to complete its science and technical review and promulgate any follow-on rulemakings based on EPA's conclusions concerning the proper treatment of biogenic CO_2 emissions in the PSD and Title V programs. In the event that EPA takes action that supersedes the biomass deferral in fewer than three years, Wyoming should revise its SIP accordingly.

For stationary sources co-firing fossil fuel and biologically-based fuel, and/or combusting mixed fuels (e.g., tire derived fuels, municipal solid waste (MSW)), the biogenic CO_2 emissions from that combustion are included in the biomass deferral. However, the fossil CO_2 emissions are not. Emissions of CO_2 from processing of mineral feedstocks (e.g., calcium carbonate) are also not included in the deferral. Various methods are available to calculate both the biogenic and fossil portions of CO_2 emissions, including those methods contained in the GHG Reporting Program (40 CFR Part 98). Consistent with the other pollutants in PSD and Title V, there are no requirements to use a particular method in determining biogenic and fossil CO_2 emissions.

EPA's final biomass deferral rule is an interim deferral for biogenic CO_2 emissions only and does not relieve sources of the obligation to meet the PSD and Title V permitting requirements for other pollutant emissions that are otherwise applicable to the source during the deferral period or that may be applicable to the source at a future date pending the results of EPA's study and subsequent rulemaking action. This means, for example, that if the deferral is applicable to biogenic CO_2 emissions from a particular source during the three-year effective period and the study and future rulemaking do not provide for a permanent exemption from PSD and Title V permitting requirements for the biogenic CO_2 emissions from a source with particular characteristics, then the deferral would

[5] ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call,'' 75 FR 77698 (Dec. 13, 2010).

[6] ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases,'' 75 FR 81874 (December 29, 2010).

[7] ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan,'' 75 FR 82246 (December 30, 2010). Because Wyoming did not submit by the established deadline, a corrective SIP revision to apply their Clean Air Act PSD program to sources of GHGs, Wyoming is subject to the GHG PSD FIP.

[8] ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting Sources in State Implementation Plans,'' 75 FR 82536 (December 30, 2010). The GHG PSD SIP Narrowing Rule does not apply to Wyoming because the GHG PSD FIP is in place.

end for that type of source and its biogenic CO_2 emissions would have to be appropriately considered in any applicability determinations that the source may need to conduct for future stationary source permitting purposes, consistent with that subsequent rulemaking and the Final Tailoring Rule (e.g., a major source determination for Title V purposes or a major modification determination for PSD purposes).

EPA also wishes to clarify that we did not require that a PSD permit issued during the deferral period be amended or that any PSD requirements in a PSD permit existing at the time the deferral took effect, such as BACT limitations, be revised or removed from an effective PSD permit for any reason related to the deferral or when the deferral period expires. Section 52.21(w) of 40 CFR requires that any PSD permit shall remain in effect, unless and until it expires or it is rescinded, under the limited conditions specified in that provision. Thus, a PSD permit that is issued to a source while the deferral was effective need not be reopened or amended if the source is no longer eligible to exclude its biogenic CO_2 emissions from PSD applicability after the deferral expires. However, if such a source undertakes a modification that could potentially require a PSD permit and the source is not eligible to continue excluding its biogenic CO_2 emissions after the deferral expires, the source will need to consider its biogenic CO_2 emissions in assessing whether it needs a PSD permit to authorize the modification.

Any future actions to modify, shorten, or make permanent the deferral for biogenic sources are beyond the scope of the biomass deferral action and this proposed approval of the deferral into the Wyoming SIP, and will be addressed through subsequent rulemaking. The results of EPA's ongoing review of the science related to net atmospheric impacts of biogenic CO_2 are incomplete. The framework to properly account for such emissions in Title V and PSD permitting programs based on the study is also incomplete. Thus, we are unable to determine which biogenic CO_2 sources currently subject to the deferral would be subject to any permanent exemptions, or would be potentially required to account for their emissions after a future rulemaking by EPA. Once EPA has taken any future rulemaking, Wyoming should address related revisions to its SIP.

II. History of State Submittals

As noted, on June 3, 2010, EPA promulgated the Tailoring Rule, setting out requirements for application of PSD to emissions sources of GHGs. Previously, updates to Wyoming's PSD permit program had been most recently approved by EPA on July 16, 2008. As described in our notice of approval (73 FR 40750), Wyoming's PSD program at that date met the general requirements of CAA section 110(a)(2)(C).

On December 13, 2010, EPA published a finding of substantial inadequacy and a SIP call for 13 states and localities, including Wyoming, on the basis, as described above, that the states' SIP-approved PSD programs did not apply PSD to GHG-emitting sources as required. EPA included Wyoming on the basis of comments from Wyoming that state law (specifically, Wyoming Statutes section 35–11–213) prevented it from revising its SIP to incorporate the GHG provisions of the Tailoring Rule. Seven of those states, including Wyoming, received a deadline of December 22, 2010 to submit the required SIP revisions, after indicating that they would not oppose EPA's imposition of that deadline. On December 29, 2010, EPA published a finding that Wyoming and the other six states had failed to submit the required SIP revisions (75 FR 81874). Finally, on December 30, 2010, EPA published a FIP for Wyoming and the other six states to ensure that PSD permits for sources emitting GHGs could be issued and that incorporated the Tailoring Rule thresholds (75 FR 82246). EPA made clear in the SIP call and FIP rulemakings that the purpose of the rulemakings and their expedited schedules was to ensure that GHG-emitting sources in the affected states would have available a permitting authority to act on the GHG PSD permit applications by the January 2, 2011 date that GHGs became subject to PSD. EPA also emphasized that its ''overarching goal is to assure that in every instance, it will be the state that will be the permitting authority,'' and that as a result, EPA sought to return permitting authority to the states as soon as possible. 75 FR at 77717 (SIP call final rule).

Since then, Wyoming's Legislature has twice amended Wyoming Statutes section 35–11–213 to allow for regulation of GHGs. First, during the 2012 legislative session, the Wyoming Legislature directed the Wyoming DEQ and the Wyoming Environmental Quality Council to ''adopt regulations to amend Wyoming's Clean Air Act state implementation plan and Wyoming's Title V operating permit program to the extent necessary to obtain state primacy over the regulation of greenhouse gases by the U.S. EPA.'' Then, during the 2013 legislative session, the Wyoming Legislature authorized the Wyoming DEQ to ''submit an amended state implementation plan providing for regulation of greenhouse gases to the U.S. EPA for approval.'' Once the second bill was signed into law, Wyoming's rule revisions for its PSD program became effective on February 14, 2013. Wyoming DEQ submitted the revisions to EPA on March 8, 2013.

III. EPA's Analysis of the State's Submittal

Wyoming has adopted and submitted regulations that are substantively similar to the federal requirements for the permitting of GHG-emitting sources subject to PSD. We propose to conclude that the revisions are consistent with the requirements of 40 CFR 51.166, in particular requirements set out in EPA's final GHG Tailoring Rule, and that the revisions should be approved into Wyoming's SIP.

Section 3 of Chapter 1, Common Provisions, was revised to add a definition of ''greenhouse gases (GHGs).'' This definition is used in new Section 7, Greenhouse Gases, to specify that preconstruction permits for GHGs are only required under the PSD permitting program, thus exempting minor sources from GHG permitting. Section 4 of Chapter 6, Permitting Requirements, was modified to establish thresholds for permitting of GHGs under the PSD program. Definitions for the terms ''GHGs,'' ''emissions increase'' and ''tpy CO_2 equivalent emissions (CO_2e)'' with exclusions for biogenic sources, were added to this section. Applicability thresholds for several different types of permitting scenarios were also added. Changes were made to the PSD definition of ''Major source'' to avoid triggering applicability for minor sources. Chapter 6, Section 14, Incorporation by Reference was revised to generally incorporate by reference federal regulations, such as PSD and NSR, as published on July 1, 2010, with the exception of references to GHG-related regulations that were published after that date.

Wyoming organized its revisions to its PSD program somewhat differently than EPA's Tailoring Rule revisions to 40 CFR 51.166. In particular, Wyoming did not define the term ''subject to regulation''; instead Wyoming separately defined the term ''greenhouse gases.'' In the definition of ''greenhouse gases,'' Wyoming established thresholds for application of PSD to sources of GHGs that are consistent with the thresholds established in the Tailoring Rule. In particular, within the definition of ''greenhouse gases,'' Wyoming provided a definition of ''tpy CO_2

equivalent emissions'' and a modified definition of ''emissions increase'' consistent with the use of those terms in 40 CFR 51.166(b)(48)(ii) and (iii). Wyoming also modified the definition of ''major stationary source'' to directly account for sources of GHGs. The net effect of Wyoming's approach is that, if a new pollutant (other than GHGs) becomes subject to regulation under the definition of ''subject to regulation'' in 40 CFR 51.166(b)(48), Wyoming must update its PSD program again to reflect the requirement to regulate that new pollutant. However, Wyoming's SIP revision is consistent with current requirements for PSD programs.

We also propose to conclude that the revisions appropriately defer the applicability of the Tailoring Rule thresholds for biogenic CO_2 emissions from bioenergy and other biogenic stationary sources consistent with EPA's Biomass Deferral Final Rule. The deferral is provided for in subsection (i)(C) of Wyoming's definition of ''greenhouse gases.''

Finally, we are not proposing action at this time on Wyoming's revision to Chapter 6, Permitting Requirements, Section 14, Incorporation by Reference. The revision to this provision updates the date of incorporation by reference of federal Regulations, such as PSD and NSR, to July 1, 2010. Because this update applies throughout Chapter 6, it affects other portions of Chapter 6, including Wyoming's pending May 11, 2011 nonattainment NSR program submittal that we are not proposing to act on today. We intend to act on the March 8, 2013 revision to Chapter 6, Section 14 in tandem with our action on the May 11, 2011 submittal, in order to ensure that the update to the incorporation by reference date is applied to all pending submittals. The portions of the March 8, 2013 submittal we propose to act on today directly specify the version of the CFR to which they refer, so it is not necessary to act on the revision to Chapter 6, Section 14 at this time.

IV. Proposed Action

EPA proposes to approve portions of the March 8, 2013 submittal for incorporation into the SIP. Specifically, EPA proposes to approve revisions to Chapter 1, Common Provisions, Section 3, and Chapter 6, Permitting Requirements, Section 4, Prevention of Significant Deterioration, and the addition of Chapter 1, Common Provisions, Section 7, Greenhouse Gases. EPA has made the preliminary determination that these March 8, 2013 revisions are approvable because they were adopted and submitted in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs. We are not proposing at this time to act on the revision to Chapter 6, Permitting Requirements, Section 14, Incorporation by Reference.

As explained in today's proposed notice, Wyoming is currently subject to a FIP for PSD permitting of GHG emissions. This GHG PSD FIP remains in place, and EPA remains the PSD permitting authority for GHG-emitting sources in Wyoming, until EPA finalizes our proposed approval of the March 8, 2013 submitted revision to the Wyoming SIP. At that point, the Wyoming SIP will contain a full GHG PSD program. We therefore propose that upon finalization of today's SIP approval action, EPA will rescind the GHG PSD FIP for Wyoming.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: June 12, 2013.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2013–15038 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0468; FRL–9826–1]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC), oxides of nitrogen (NO_X), and particulate matter (PM) emissions from open burning and wood-burning devices. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 24, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0468, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rynda Kay, EPA Region IX, (415) 947–4118, *kay.rynda@epa.gov.*

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

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB). Rule 444 subdivision (g) and Rule 445 subdivision (h), related to fees and penalties respectively, were excluded from the versions of the rules submitted for consideration by the EPA for SIP approval.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
SCAQMD	444	Open Burning	05/03/13	06/11/13
SCAQMD	445	Wood Burning Devices	05/03/13	06/11/13

We find that the submittal for SCAQMD Rules 444 and 445 meets the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

We approved earlier versions of Rule 444 and Rule 445 into the SIP on April 8, 2002 (67 FR 16644) and June 11, 2009 (74 FR 27716) respectively. The SCAQMD adopted revisions to Rule 444 on November 7, 2008, but did not submit them to us. The SCAQMD adopted additional revisions to Rule 444 and revisions to Rule 445 on May 3, 2013, and CARB submitted these revised rules to us on June 11, 2013.

C. What is the purpose of the submitted rule revisions?

Emissions of VOCs and NO_X help produce ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. PM emissions contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control NO_X, VOC and PM emissions.

Rule 444 is designed to minimize the impacts of smoke and other air pollutants generated by open burning conducted within the SCAQMD. Changes from the SIP approved rule include the following: (a) Forecast criteria for issuing permissive, marginal, and no-burn days was modified to be based on the Air Quality Index rather than on 1-hour ozone forecasted values; (b) forecast criteria for allowing a permissive burn day was amended to exclude days in which a ''Mandatory Winter Burning Curtailment'' day is in effect, as provided in Rule 445; (c) limited exemptions were added for burning to protect crops from freezing and for product testing; (d) daily maximum agricultural and prescribed burning acreage was increased to account for less permissive burn days resulting from the new no burn day

forecast criteria (total emissions over the season/year remain the same); (e) new requirements were added for burning associated with pyrotechnics used in filmmaking, fire prevention/suppression training, prescribed burning and agricultural burning; (f) definitions were added or amended for clarity; and (g) other minor editorial changes and clarifications were made to the rule.

Rule 445 is designed to minimize the impacts of smoke and other air pollutants generated during the use of wood burning devices. The rule establishes requirements for the sale, operation, and installation of such devices. Changes from the SIP approved rule include the following: (a) The ''Mandatory Winter Burning Curtailment'' provision was modified to reduce the forecast threshold for a given source/receptor area from 35 to 30 μg/m3 and to add a new provision describing when such curtailment would apply basin-wide; (b) new wood-labeling requirements for wood suppliers were added; (c) a provision was removed which allowed uncertified wood-burning devices to be installed in existing homes if emission equivalency could be demonstrated; (d) modifications were made to clarify that cookstove and wood labeling exemptions apply only to commercial cooking; and (e) the definition of ''Wood Burning Device'' was modified to include both open and enclosed devices. EPA's technical support documents (TSDs) contain more detailed information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193).

Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

Section 172(c)(1) of the CAA requires nonattainment areas to implement all reasonably available control measures (RACM), including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT), as expeditiously as practicable. The Los Angeles-South Coast Air Basin (South Coast) is currently designated as an extreme 1-hr ozone nonattainment area and an extreme 8-hr ozone nonattainment area, and is also designated nonattainment for the 1997 annual, 1997 24-hour, and 2006 24-hour fine particulate matter ($PM_{2.5}$) standards (40 CFR 81.305). Open burning emits direct $PM_{2.5}$, as well as volatile organic compounds (VOCs) and oxides of nitrogen (NO_X), which are regulated as precursors to $PM_{2.5}$ and ozone in the South Coast. Therefore, SCAQMD must implement RACM for open burning and residential wood burning if those measures will advance attainment of the National Ambient Air Quality Standard (NAAQS) for $PM_{2.5}$ or ozone in the South Coast, when considered collectively with other reasonable measures. Additional control measures may be required pursuant to CAA section 172(c)(1) if both: (1) Additional measures are reasonably available; and (2) these additional reasonably available measures will advance attainment in the area when considered collectively.

The South Coast is also currently designated as a serious nonattainment area for the PM–10 NAAQS (40 CFR 81.305). On June 12, 2013, however, EPA signed a final rule to redesignate the area to attainment for the PM–10 NAAQS, which will become effective 30 days after publication in the **Federal Register**. *See* ''Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Air Basin; Approval of PM_{10} Maintenance Plan and Redesignation to Attainment for the PM_{10} Standard,'' pre-publication final rule signed June 12, 2013. Thus, we are not evaluating Rule 444 and 445 for compliance with BACT/BACM requirements in this rulemaking.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the statutory requirements concerning enforceability and SIP relaxations as interpreted in EPA guidance. Rule 444 and 445 are generally as stringent as or more stringent than analogous rules in other California Districts. As necessary, in separate rulemakings, EPA will take action on the State's RACM demonstrations for $PM_{2.5}$ and ozone based on evaluation of the control measures submitted as a whole and their overall potential to advance the applicable attainment dates in the South Coast. See 40 CFR 51.1010, 51.912(d). Our TSDs have more information on our evaluation and recommendations for additional control measures which may be reasonably available.

C. EPA Recommendations to Further Improve the Rules

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules but are not currently the basis for rule disapproval.

D. Public Comment and Proposed Action

Because EPA believes the submitted rules fulfill all applicable requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

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

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

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: June 12, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2013–14917 Filed 6–21–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R06–OW–2013–0221; FRL–9826–6]

Ocean Dumping; Atchafalaya-West Ocean Dredged Material Disposal Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and draft Environmental Impact Statement (EIS); extension of public comment period.

SUMMARY: On May 21, 2013, EPA Region 6 proposed to designate the Atchafalaya-West Ocean Dredged Material Disposal Site pursuant to the draft EIS, ''Designation of the Atchafalaya River Bar Channel Ocean Dredged Material Disposal Site Pursuant to Section 102(c) of the Marine Protection, Research and Sanctuaries Act of 1972, St. Mary Parish, Louisiana'' (March 2013). We are hereby extending the public comment period for the proposed rule and the draft EIS.

DATES: *Comments.* The comment period for the proposed rule and draft EIS published May 21, 2013 (78 FR 29687), is extended. The end of the public comment period is now extended to August 8, 2013. Comments must be received or postmarked by that date.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OW–2013–0221, by one of the following methods:

• *Federal e-Rulemaking Portal: http://www.regulations.gov*; follow the online instruction for submitting comments.

• *Email:* Dr. Jessica Franks at *franks.jessica@epa.gov*

• *Fax:* Dr. Jessica Franks, Marine and Coastal Section (6WQ–EC) at fax number 214–665–6689.

• *Mail:* Dr. Jessica Franks, Marine and Coastal Section (6WQ–EC), Environmental Protection Agency, Mailcode: (6WQ–EC), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket No. EPA–R06–OW–2013–0221. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Marine and Coastal Section (6WQ–EC), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed above under comment submittals. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Jessica Franks, Ph.D., Marine and Coastal Section (6WQ–EC), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–8335, fax number (214) 665–6689; email address *franks.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION: The proposed rule and draft EIS may both be obtained via the Internet at *http://www.epa.gov/region6/water/ecopro/current_action.html* or the Federal e-Rulemaking Portal: *http://www.regulations.gov.* To obtain hardcopies of these documents please contact Dr. Jessica Franks using the contact information provided above.

List of subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: June 12, 2013.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2013–14758 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 143

46 CFR Parts 110 and 111

[Docket No. USCG–2012–0850]

RIN 1625–AC00

Electrical Equipment in Hazardous Locations

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations. This proposed subpart would be applicable to foreign Mobile Offshore Drilling Units (MODUs), floating facilities, and vessels that engage in OCS activities for the first time after the effective date of the regulations. The proposed subpart would also be applicable to newly constructed U.S. MODUs, floating facilities, and vessels, excluding offshore supply vessels (OSVs). The proposed regulations would expand the list of national and international explosion protection standards deemed acceptable, as well as add the internationally accepted independent third-party certification system, the IEC System for Certification to Standards relating to Equipment for use in Explosive Atmospheres, as an accepted method of testing and certifying electrical equipment intended for use in hazardous locations. The proposed regulations would also provide owners and operators of existing U.S. MODUs, floating OCS facilities, and vessels, other than OSVs, that engage in OCS activities and U.S. tank vessels that carry flammable or combustible cargoes the option of choosing between the compliance regime contained in existing regulations. This proposal would support the U.S. Coast Guard's maritime safety mission.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before September 23, 2013 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0850 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

Viewing incorporation by reference material: You may inspect the material proposed for incorporation by reference at room 1304 U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–372–1381. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Raymond Martin, Systems Engineering Division (CG–ENG–3), Coast Guard; telephone 202–372–1384, email *Raymond.W.Martin@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

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I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0850), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and insert ''USCG–2012–0850'' in the ''Search'' box. Click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert ''USCG–2012–0850'' in the ''Search'' box. Click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or

signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

D. Public Meeting

We do not now plan to hold a public meeting. You may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Abbreviations

ABS American Bureau of Shipping
ANSI American National Standards Institute
API American Petroleum Institute
ASTM ASTM International
CFR Code of Federal Regulations
CSA Canadian Standards Association
DHS Department of Homeland Security
Ex Designation of explosion-protected electrical apparatus complying with IEC standards
ExCB Ex Certification Body
ExTL Ex Testing Laboratory
ExTR Ex Test Report
FAM Final action memo
FR Federal Register
IEC International Electrotechnical Commission
IECEx System IEC System for Certification to Standards relating to Equipment for use in Explosive Atmospheres
IEEE Institute of Electrical and Electronics Engineers
IMO International Maritime Organization
ISA International Society of Automation
ISO International Organization for Standardization
MISLE Marine Information for Safety and Law Enforcement
MSC Marine Safety Center
MODU Mobile Offshore Drilling Unit
NARA National Archives and Records Administration
NAVSEA Naval Sea Systems Command
NEC National Electrical Code
NEMA National Electrical Manufacturers Association
NEPA National Environmental Policy Act
NFPA National Fire Protection Association
NPFC Naval Publications and Forms Center
NPRM Notice of Proposed Rulemaking
NRTL Nationally Recognized Testing Laboratory
OCS Outer Continental Shelf
OMB Office of Management and Budget
OSV Offshore Supply Vessel
QAR Quality Assessment Report
RP Recommended Practice
SANS Ship Arrival Notification System
SOLAS International Convention for Safety of Life at Sea, 1974
U.S. United States
U.S.C. United States Code

III. Background

On September 9, 2011, the Coast Guard published the final action memo (FAM) by the Commandant on the recommendations of its investigation into the explosion, fire, and sinking of the Mobile Offshore Drilling Unit (MODU) DEEPWATER HORIZON and the resulting loss of 11 of its crew members. One key finding of the Coast Guard's investigation of the DEEPWATER HORIZON emphasized the importance of proper electrical equipment installations in hazardous locations during oil drilling exploration on U.S. and foreign MODUs. The ignition or explosion hazards posed by electrical equipment installations during Outer Continental Shelf (OCS) activities involving storage, production and processing of hydrocarbons were also considered in the report. You may view a copy of the FAM and the investigation online by going to the Coast Guard's Web site at *http://uscg.mil/hq/cg5/cg545* and clicking on the Deepwater Horizon-exhibits-transcripts-video link. The Coast Guard, therefore, reviewed the existing regulations for hazardous locations, specifically the requirements for electrical equipment testing and certification as well as the referenced standards applicable to U.S. and foreign MODUs, floating OCS facilities, and vessels that engage in OCS activities.

Currently, electrical equipment on U.S. vessels and floating facilities that operate in the OCS must comply with 46 CFR subpart 111.105. This subpart adopts international and national standards and requires the equipment to be tested and certified by a Coast Guard accepted independent third-party laboratory.

In contrast, foreign vessels and floating facilities that engage in OCS activities must meet the requirements of 33 CFR subchapter N. While foreign floating OCS facilities must meet the same engineering standards as U.S. floating OCS facilities, foreign vessels generally meet the standards of their flag administration. Their compliance with international standards, such as the IMO MODU Code, is subject to the interpretation of the applicable flag administration. With respect to explosion protection standards, this can result in the installation of equipment on vessels that has not been tested by an independent third-party laboratory. The Coast Guard believes that U.S. and foreign vessels and floating facilities that engage in OCS activities for the first time, after the effective date of the regulations, should have equivalent standards. The Coast Guard, therefore, proposes to require third-party testing and certification of electrical equipment in hazardous locations in order to achieve an equivalency of standards between U.S. and foreign vessels and floating facilities.

The Coast Guard identified an international certification system that requires full testing to the IEC 60079 series of explosion protection standards. The IECEx System pertains to ''Certification to Standards Relating to Equipment for Use in Explosive Atmospheres'' which requires full testing to the applicable IEC 60079 standard by an explosive atmospheres (Ex) Testing Laboratory (ExTL) and issuance of certification (Certificate of Conformity) by an Ex Certification Body (ExCB). The ExTL and ExCB are accepted under the IECEx system after meeting the competency requirements established by the International Organization for Standardization (ISO)/IEC Standard 17025 and related IECEx Operational Documents and Rules of Procedure. Some foreign flag administrations do not impose the IEC 60079 series of standards, and instead accept an ''EC Type Examination Certificate'' issued under the European Commission Directive (94/9/EC) on Equipment and Protective Systems Intended for use in Potentially Explosive Atmospheres (ATEX Directive) for EU member nations. In contrast to IECEx, certification under the ATEX Directive show compliance with the Essential Health and Safety Requirements of the ATEX directive for which full or partial compliance with an IEC harmonized standard, may be used, but it does not specifically require full testing and certification by an independent third party laboratory. Accordingly, to adequately address the DEEPWATER HORIZON report's recommendations identified above, the Coast Guard proposes to amend the hazardous locations regulations to include the IECEx System. Additionally, the Coast Guard proposes to expand the list of national and international explosion protection standards deemed acceptable.

IV. Discussion of Proposed Rule

The Coast Guard proposes to add a new subpart, 46 CFR subpart 111.108, that would require foreign MODUs, floating OCS facilities, and vessels that engage in OCS activities for the first time after the effective date of the regulations, to have a level of safety equivalent to the certification regime required under subpart 111.105. Currently, these vessels and floating OCS facilities must comply with 33 CFR subchapter N. We propose to amend 33

CFR 143.120, add 143.208, and add 143.302 to require newly built foreign vessels and floating OCS facilities and existing foreign vessels and floating facilities that have never operated on the OCS to meet the proposed subpart 46 CFR 111.108.

Foreign vessels and floating facilities operating on the OCS at the time of the effective date of the final rule will not be required to meet the requirements of this proposed rule because they are already subject to the existing applicable international standards and have been inspected by the Coast Guard in accordance with 33 CFR subchapter N. Through its existing inspection authorities, the Coast Guard is examining electrical installations in hazardous locations on these vessels and floating OCS facilities to ensure they meet the appropriate standards. While this existing compliance scheme is workable, it is less than ideal as it leads to a patchwork of different standards across the OCS, which makes inspection by port state control officers and compliance by owners and operators more difficult because it requires familiarity with multiple standards and certification schemes. The Coast Guard has determined that the benefit of a consistently applied standard is preferable and its requirements can be followed at little to no cost (see discussion of costs below).

This proposed subpart would also apply to newly constructed U.S. MODUs, floating facilities, and vessels, excluding offshore supply vessels (OSVs) [1]. Additionally, this proposed rule would provide owners and operators of existing U.S. MODUs, floating OCS facilities, and vessels, other than OSVs, that engage in OCS activities and U.S. tank vessels that carry flammable or combustible cargoes the option of choosing between the compliance regime contained in existing subpart 111.105 or the one in proposed subpart 111.108. Note, this proposed rule would not affect any existing domestic-flagged vessels or facilities that have not already operated on the OCS as they comply with subpart 111.105.

This proposed rule would allow the use of the latest editions of the North American Nationally Recognized Testing Laboratory (NRTL) standards, the American National Standards Institute/International Society of Automation (ANSI/ISA) 60079 series of standards referenced in Article 505 of the National Electrical Code (NEC), and the international consensus standards, International Electrotechnical Commission (IEC) 60079 Series. Further, the proposed regulations would permit the use of an internationally accepted certification system, the IECEx System.

The term ''hazardous location'' is broadly understood as a location where concentrations of flammable gases, vapors, or dusts (commonly referred to as explosive atmospheres) occur or may be present. Electrical equipment in these locations are specifically designed, tested, certified, or listed, and installed to ensure that explosions due to equipment arcing or high surface temperature do not occur. Hazardous locations may be classified by Class/Division or by Zone; thus the definitions of these terms would be included in the proposed revisions to § 110.15–1.

The Coast Guard proposes to add provisions specific to U.S. and foreign MODUs, floating OCS facilities, vessels (excluding U.S. OSVs) engaged in OCS activities, and U.S. tank vessels that carry flammable and combustible cargoes. These provisions would prescribe the use of the latest editions of widely accepted NRTL or international consensus standards.

With respect to U.S. industry standards, these proposed regulations would allow U.S. and foreign MODUs, floating OCS facilities, vessels (excluding U.S. OSVs) engaged in OCS activities, and existing U.S. MODUs, floating OCS facilities, and vessels, other than OSVs, that engage in OCS activities and U.S. tank vessels carrying flammable and combustible cargoes to comply with either of two hazardous locations classification systems found in the NEC, also known as National Fire Protection Association 70 (NFPA 70). Both of these systems classify hazardous locations according to the likely presence of explosive atmospheres. Hazardous locations may comply with Articles 500 through 504 of NFPA 70, expressed in Class and Divisions, or may comply with Article 505 of NFPA 70, expressed in Class and Zones. Articles 501 and 505 provide guidance in combining listed or certified equipment for use in Division or Zone hazardous locations. In order to delineate areas within a Class I, Division 1 location where explosive atmospheres are always present (i.e., equivalent to Zone 0 in Article 505 of NFPA 70), the Coast Guard decided to use the term ''Class I, Special Division 1.'' This term is based on the American Petroleum Institute Recommended Practice (API RP) 500. Regardless of which Article of NFPA 70 is followed, the proposed regulations in § 111.108–3(b)(1) and (b)(2) would require the equipment to be tested and listed or certified by a Coast Guard-accepted independent laboratory. A list of Coast Guard-accepted independent laboratories can be found at *http://cgmix.uscg.mil/.*

As an alternative to the North American NRTL standards, the proposed regulations for hazardous locations would allow U.S. and foreign MODUs, floating OCS facilities and vessels engaged in OCS activities, existing U.S. MODUs, floating OCS facilities, and vessels, other than OSVs, that engage in OCS activities, and U.S. tank vessels carrying flammable and combustible cargoes to comply with the widely accepted international standards IEC 61892–7 or IEC 60092–502. Consistent with the North American NRTL standards, the proposed regulations in § 111.108–3(b)(3) would require electrical equipment to be tested and approved or certified by a Coast Guard-accepted independent laboratory in order to meet the provisions of Clause 6 of IEC 61892–7 or Clause 6 of IEC 600092–502, as applicable.

The Coast Guard believes it is a vitally important and appropriate safety measure for the testing laboratory and certification body to follow published procedures established under an international certification scheme and conformity assessment system when performing the various testing and certification of electrical equipment for use in hazardous locations. Under the existing international regulatory standards governing foreign vessels and floating facilities engaged in OCS activities, however, equipment could be installed in hazardous locations that meets the IEC 60079 explosion protection standards but has not been tested and certified by an independent body. For this reason, the Coast Guard, through this NPRM, proposes to adopt the international certification system, the IECEx System, which implements the IEC 60079 series of standards. Additionally, the proposed regulations would add a new paragraph (q) in § 110.25–1, ''Plans and information required for new construction,'' which would specify submittal of IECEx certification.

The IECEx System is an internationally accepted certification system, widely used throughout the industry, that ensures electrical equipment is manufactured, tested, marked, installed, and certified for full compliance with the applicable IEC 60079 standards by a competent authority. Approval under the IECEx System involves an Ex Certification Body (ExCB) and an Ex Testing Laboratory (ExTL) that have been

[1] These proposed regulations would not apply to U.S. OSVs although those vessels may be the subject of a separate, future rulemaking. Currently, U.S. OSVs must meet the hazardous location requirements of 46 CFR subchapter L.

accepted into the IECEx System after meeting competence requirements found in the International Organization for Standardization ISO/IEC Standard 17025 and related IECEx procedures. The ExTL tests the subject equipment and drafts an Ex Test Report (ExTR) to document the test results. The ExCB reviews the manufacturing quality assurance process and issues an IECEx Quality Assessment Report (QAR). Based on the QAR and ExTR, the ExCB issues an IECEx Certification of Conformity for the equipment.

For protections not covered by the standards discussed above, this proposed rule would incorporate existing requirements for other large vessels. For example, proposed § 111.108–3 contains submerged pump motor requirements based on existing Subpart 111.105 and tank barge regulations. It also incorporates ASTM International (ASTM) F2876–10, ''Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for Use in Hazardous Locations in Marine Applications,'' to address the growing use of engines with electronic controls that could cause arcing or sparking in hazardous locations.

V. Incorporation by Reference

Material proposed for incorporation by reference appears in 46 CFR 110.10. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in § 110.10–1.

Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Two additional executive orders were recently published to promote the goals of Executive Order 13563: Executive Orders 13609 (''Promoting International Regulatory Cooperation'') and 13610 (''Indentifying and Reducing Regulatory Burdens''). Executive Order 13609 targets international regulatory cooperation to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. Executive Order 13610 aims to modernize the regulatory systems and to reduce unjustified regulatory burdens and costs on the public.

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry. We consider all estimates and analysis in this Regulatory Analysis to be draft and subject to change in consideration of public comments.

A summary of the draft Regulatory Assessment follows:

Costs

A breakdown of the population, the effect of the proposed rule on said population, and the number of vessels included in each vessel class follows in Table 1.

TABLE 1—AFFECTED POPULATIONS: U.S. AND FOREIGN

	Effect due to proposed regulation	Number of Vessels & Facilities
U.S. Vessels, excluding OSVs [2]		
New to OCS	Currently 111.105, regulation provides option to pursue 111.108.	56
Existing with prior OCS activities	Currently 111.105, regulation provides option to pursue 111.108.	243
U.S. MODUs & floating OCS facilities [3]		
New Builds	Must comply with 111.108	24
New to OCS	Currently 111.105, regulation provides option to pursue 111.108.	0
Existing with prior OCS activities	Currently 111.105, regulation provides option to pursue 111.108.	30
U.S. Tank Vessels [4]		
New Builds	Currently 111.105, regulation provides option to pursue 111.108.	172 [5]
Existing	Currently 111.105, regulation provides option to pursue 111.108.	6,080 [6]
Foreign Vessels [7]		
New to OCS	Must comply with 111.108	0
Existing with prior OCS activities	No Change	2

TABLE 1—AFFECTED POPULATIONS: U.S. AND FOREIGN—Continued

	Effect due to proposed regulation	Number of Vessels & Facilities
Foreign MODUs & floating OCS facilities [8]		
New to OCS	Must comply with 111.108	16
Existing with prior OCS activities	No Change	80

[2] Population data obtained via queries of the MISLE (Marine Information for Safety and Law Enforcement) database, maintained by the U.S. Coast Guard.
[3] Population data obtained via queries of the MISLE and SANS (Ship Arrival Notification System) databases, both maintained by the U.S. Coast Guard.
[4] Population data obtained via queries of the MISLE database, maintained by the U.S. Coast Guard.
[5] 3.5 Tank Ships + 168.6 Tank Barges = 172 newly built per year (estimated over a ten year period).
[6] 225 Tank Ships + 5,855 Tank Barges = 6,080.
[7] Population data obtained via queries of the MISLE and SANS databases, both maintained by the U.S. Coast Guard.
[8] Population data obtained via queries of the MISLE and SANS databases, both maintained by the U.S. Coast Guard.

U.S. Vessels

We do not anticipate any costs to be borne by the U.S.-flagged vessels that would be affected by this proposed rule. The proposed rule would require that all U.S. vessels, excluding OSVs, comply with the newly created subpart 111.108. Our analysis is simplified due to the population demographics, which are filtered to include only those vessels which would (a) be on the OCS in pursuit of OCS activities as defined by this proposed rule, and (b) contain a hazardous area. Evaluation of vessel population data maintained by the Coast Guard and contained in the Marine Information for Safety and Law Enforcement (MISLE) database allows us to determine a potential 297 vessels that would fall under the umbrella of this proposed rule. All of these vessels are of the oil recovery type.

Proposed subpart 111.108 would not impose any burden on U.S. vessels due to the nature of the standards being incorporated. For example, existing subpart 111.105 refers to Articles 500–505 of the NEC (2002) while proposed subpart 111.108 would refer to NEC (2011) Articles 500–505. Because North American certification of electrical equipment is generally to the most current edition of the published reference standards,[9] we do not anticipate new equipment will be tested and certified to the standards referenced in subpart 111.105 when more current, updated editions of the standards are available. The Coast Guard strives to incorporate updated standards after publication by the standards development organizations. During the time between the publication date of the updated standard and the date it is incorporated into Coast Guard regulations, certifying laboratories evaluate new equipment using the updated standard. Because all of the vessels affected by this proposed rule would be newly built and the equipment will be certified before being installed on these vessels, all vessels affected by this proposed rule would be required to be in compliance with the updated standards proposed in subpart 111.108.

The logic applied to U.S. vessels, excluding OSVs, applies to U.S. MODUs and floating OCS facilities as well. We do not anticipate any cost burden associated with this proposed rule to be imposed on this vessel class. We believe this because the affected population is entirely found under the 'new build' designation. As discussed earlier, these new builds would be required to comply with proposed subpart 111.108, a subpart that contains the updated standards to which new equipment would be certified. As with the vessels discussed earlier, in the absence of proposed subpart 111.108, new equipment would be built to the most current standards as a matter of industry practice. Over the 10-year period during which the population data for this vessel class was compiled, 24 new MODUs were built and a single U.S. MODU entered the OCS from a foreign location. Under the proposed rule, this scenario would not require any costs to the vessel owner as there is no change in the regulatory environment for these existing vessels.

The proposed rule contains language pertinent to existing U.S. MODUs, floating OCS facilities, and vessels, other than OSVs, that engage in OCS activities, and U.S. tank vessels, but we do not foresee any associated costs to the owners of these vessels and facilities. Currently, the regulations for electrical installations in hazardous locations are contained in subpart 111.105. The proposed regulation will expand the available subparts to include proposed subpart 111.108, while still allowing owners and operators, the option to remain subject to existing subpart 111.105.

Foreign Vessels

Currently, foreign vessels are required to comply with the regulations governing electrical installations in hazardous locations of the nation under whose flag they operate. This proposed rule would require foreign vessels new to the OCS to comply with proposed subpart 111.108. Our analysis is simplified due to the population that the proposed regulation is expected to affect. Based on historical information found in the Ship Arrival Notification System (SANS) [10] database, we are able to ascertain the number of foreign vessels that have engaged in OCS activities. After filtering this population data for vessels with prior visits to the OCS, we anticipate the affected foreign vessel population that is new to the OCS to be zero. Additionally, there were no new arrivals on the OCS by foreign vessels built within the ten year period, 2002–2011, that would be affected by the proposed rule. It is for these reasons that there is no anticipated cost burden on vessels within this class. Foreign MODUs, however, require special consideration, which is provided in the following section.

Currently, foreign MODUs & floating facilities that engage in OCS activities are subject to the regulatory schemes accepted by the nation under whose flag they operate. Equipment certified and accepted by a flag administration may or may not include evaluation by an accepted third-party laboratory. The Coast Guard seeks to address this potential safety gap by requiring that electrical installations on foreign

[9] Confirmed by Principal Engineer—Global Hazardous Locations Product Safety, UL LLC., 12/26/2012

[10] This database is maintained by the Coast Guard and contains a record of vessel arrival and departure data.

MODUs & floating facilities conform to the required third-party certification processes accepted under proposed subpart 111.108. Those foreign MODUs & floating facilities that have engaged in documented OCS activities prior to implementation of the proposed rule would be exempt from proposed subpart 111.108, which would allow them to continue to operate without changes. The foreign MODUs & floating facilities that will be affected by this proposed rule are those vessels that are new to the OCS. Over a 10-year period between 2002 and 2011, 16 foreign-flagged MODUs & floating facilities that would be affected by this proposed rule have entered the OCS. This equates to an average yearly rate of 1.6 [11] vessels seeking entrance into U.S. waters in pursuit of engaging in OCS activities. We assume that this rate will stay constant into the future.

Vessels that seek to engage in OCS activities for the first time that are not in compliance with the proposed rules have two options. The vessel owners can either replace the electrical equipment with equipment certified under a permissible scheme or seek recertification from a Coast Guard-approved third-party laboratory. As a conservative estimate, we constructed calculations for full replacement or recertification of all electrical equipment in hazardous areas present on the vessel, as the potential for partial replacement or recertification of non-conforming equipment will be determined on a vessel specific basis.

We constructed cost estimates for both of these options after discussion with experts. We estimate that it would cost a vessel owner $500,000 [12] per vessel for full replacement of electrical equipment in hazardous areas. The second option, recertification of the equipment covered by this proposed rule, may be lower in cost. Additionally, it may be the preferred option for some vessel owners looking to comply with the regulation proposed in this NPRM. For the purposes of our analysis, pertaining to the recertification option, significant information gaps exist regarding its implementation. A discussion of the shortcomings of said data follows.

Recertification of equipment would begin with evaluation of existing laboratory documentation, if available, to ascertain the gap between what is acceptable to an ATEX certifying laboratory and what is acceptable to an IECEx certifying laboratory, for example. After the initial evaluation is completed, the next step would be a decision regarding acceptance, recertification, or replacement of the equipment. The cost estimate provided includes in-office labor for the initial evaluation, travel and labor time to complete a physical inspection, and final evaluation and document preparation by the certifying laboratory.

The cost for recertification on a MODU is estimated to begin at $35,000.[13] The estimated cost range for a given vessel to comply with the proposed regulation is between $35,000 to $500,000, depending on the composition and the extent of equipment replacement. The myriad types of MODUs and facilities operating on the OCS may contain a diverse range of equipment, with some equipment requiring replacement in order to comply with the proposed rulemaking, while other equipment may be able to be recertified after evaluation by a certified laboratory. A vessel found to have all equipment in compliance with the proposed regulation could conceivably proceed with recertification, for an estimated $35,000. However, because vessel specific information is unavailable, we estimate the cost of the proposed rulemaking conservatively at $500,000 per vessel, which reflects the cost associated with full replacement of electrical equipment on a vessel. At an entry rate of 1.6 per year and a cost of $500,000 per vessel & facility, the yearly cost for compliance for the industry is projected to be $800,000, as presented in Table 2.

TABLE 2—ANNUAL COSTS ON FOREIGN VESSELS & FACILITIES

Year	Undiscounted cost	Discounted @3%	Discounted @7%
1	$800,000	$776,699	$747,664
2	800,000	754,077	698,751
3	800,000	732,113	653,038
4	800,000	710,790	610,316
5	800,000	690,087	570,389
6	800,000	669,987	533,074
7	800,000	650,473	498,200
8	800,000	631,527	465,607
9	800,000	613,133	435,147
10	800,000	595,275	406,679
Total	8,000,000	6,824,162	5,618,865
Annualized	800,000	800,000	800,000

Benefits

The Coast Guard is unable to monetize benefits. We can find no casualties that would have been prevented with recertification. However, the importance of third-party testing and certification for critical equipment, such as electrical equipment intended for use in hazardous locations, addresses a potentially catastrophic hazard consisting of an explosive gas/vapor combined with an electrical ignition source, and is generally understood by industry as an appropriate measure that enhances safety and protects life, the environment, and property.

Alternatives

We considered four alternatives when evaluating the effects of this proposed rule. The first, abstaining from action, was deemed to leave a significant hazard not addressed. Further, it allows a regulatory imbalance to exist because foreign vessels and facilities operating on the OCS would not be required to meet the same standards for explosion

[11] 16 vessels & facilities/10 years = 1.6 vessels & facilities per year on average.

[12] Estimate provided by Regulatory Advisor—MWCS, Exxon Mobil, 8/14/2012.

[13] Estimate provided, via email, by Field Evaluation Program Manager, UL LLC, 9/6/2012.

protection and independent third-party certification as those of U.S. vessels and facilities operating in the same service.

The second alternative we considered was to require both U.S. and foreign-flagged vessels and facilities to adhere to the existing international standards. This alternative was deemed insufficient because compliance with international standards, such as the IMO Code, is subject to the interpretation of the applicable flag administration. An example of an undesired consequence of this alternative would be the acceptance of ATEX certified equipment. The Coast Guard, however, will not accept ATEX certifications because evidence of full testing to the applicable harmonized 60079 series of standards by an independent third-party laboratory is not guaranteed. Consistent with preexisting Coast Guard practices, third-party testing and certification for critical equipment is generally required.

The third alternative we considered was to require foreign vessels and floating facilities to meet current U.S. standards. This alternative was not selected because we believe that requiring compliance with U.S. standards is unnecessary when there are specific, comparable international standards acceptable to the Coast Guard. Because these latest editions of internationally recognized standards for explosion protection and independent third-party certification offer owners and operators greater flexibility while also avoiding the costs of coastal state specific requirements, the Coast Guard proposes to expand the list of international explosion protection standards deemed acceptable.

The final alternative, implementing the proposed regulation, would put in place a regulatory regime that would allow for both the U.S., as the coastal state, and industry to be confident in the certification and assessment of electrical equipment intended for use in hazardous locations. This would be achieved through the use of the most current, internationally recognized standards for explosion protection and independent third-party certification. Lastly, the proposed regulation would expand the list of national and international explosion protection standards deemed acceptable for U.S. operators.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We do not anticipate any effect on small entities. As noted in the previous discussion, there is no anticipated cost burden placed on U.S. entities by this proposed rule and, as such, we do not anticipate any effect on small entities that would be addressed by this section.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

C. Assistance for Small Entities

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule does not increase the burden under a current a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J.

OMB Control Number: 1625–0031.

Summary of the Collection of Information: The information sought here is needed to ensure compliance with our rules on electrical engineering for the design and construction of U.S.-flag commercial vessels.

Need For Information: These regulations contain the primary standards for the review of electrical installations on all new U.S. Coast Guard certificated vessels except small passenger vessels. Recent amendments to the regulations clarify the regulations, bring them up to date, and delete unnecessary requirements. The revisions to Subchapter J reduced the reliance on domestic standards and adopted SOLAS and other international standards developed through consensus by the international maritime community. The information collection requirements described in this supporting statement are necessary to implement the regulations in 46 CFR Parts 110 through 113.

The Coast Guard requires industry complete electrical engineering plans to meet performance requirements on new-built vessels. These requirements help resolve much of the confusion during inspections that has risen due to the varying special missions of modern merchant vessels.

The collection of information is needed to demonstrate that certain specific regulations implement the international requirements. The requirements generally reflect routine practices for U.S. merchant companies.

Proposed Use of Information: The purpose of the information collection is to ensure compliance with electrical safety regulations. Through the review of the plans prior to construction, the vessel owner of builder may be assured that the vessel, if built in accordance with the plans, will meet regulatory standards.

Description of the Respondents: Owners, operators, and builders of vessels.

Number of Respondents: 186.

Frequency of Response: On occasion.

Burden of Response: Hour Burden: 4,754 hours. Cost burden: $399,336.

Estimate of Total Annual Burden: The estimated annual hour burden is 4,754 hours. The estimated annual cost burden is $399,336.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we will submit a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us

perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this proposed rule, OMB would need to approve the Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) This rule addresses the design, construction, alteration, repair, maintenance, operation, and equipping, of vessels and facilities engaged in OCS activities. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order. This proposed rule is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule uses the following voluntary consensus standards:

- ANSI/ISA 12.12.01–2012, Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations
- ANSI/ISA 60079–18—Electrical Apparatus for Use in Class I, Zone 1 Hazardous (Classified) Locations: Type of Protection—Encapsulation ''m'', 2012 (''ANSI/ISA 60079–18'')
- ANSI/UL 674—Electric Motors and Generators for Use in Division 1 Hazardous Locations (Classified) Locations, 5th Edition, (''ANSI/UL 674'')
- ANSI/UL 823—Electric Heaters for Use in Hazardous (Classified) Locations, 9th Edition (''ANSI/UL 823'')
- ANSI/UL 844—Electric Lighting Fixtures for Use in Hazardous (Classified) Locations, 13th Edition (''ANSI/UL 844'')
- ANSI/UL 913—Intrinsically Safe Apparatus and Associated Apparatus for use in Class I, II and III, Division 1, Hazardous Locations, 7th Edition (''ANSI/UL 913'')
- ANSI/UL 1203—Explosion-proof and Dust-ignition Proof Electrical Equipment for use in Hazardous (Classified) Locations, 4th Edition (''ANSI/UL 1203'')
- ANSI/UL 2225—Cables and Cable-Fittings for use in Hazardous (Classified) Locations, 3rd Edition (''ANSI/UL 2225'')
- ASTM F2876–10—Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for use in Hazardous Locations in Marine Applications (''ASTM F2876–10'')
- CSA C22.2 No. 0–M91—General Requirements—Canadian Electrical

Code, Part II, July 1991, Reaffirmed 2006 (''CSA C22.2 No. 0–M91'')
- CSA C22.2 No. 30–M1986—Explosion-Proof Enclosures for Use in Class I Hazardous Locations, November 1988, Reaffirmed 2007 (''CSA C22.2 No. 30–M1986'')
- CSA C22.2 No. 157–92—Intrinsically Safe and Non-incendive Equipment for Use in Hazardous Locations, June 2003, Reaffirmed 2006 (''CSA C22.2 No. 157–92'')
- CSA C22.2 No. 213–M1987—Non-incendive Electrical Equipment for Use in Class I, Division 2 Hazardous Locations, March 1987, Reaffirmed 2008 (''CSA C22.2 No. 213–M1987'')
- Class Number 3600—Approval Standard for Electric Equipment for use in Hazardous (Classified) Locations General Requirements, 1998 (''FM Approvals Class Number 3600'')
- Class Number 3610—Approval Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, 2010 (''FM Approvals Class Number 3610'')
- Class Number 3611—Approval Standard for Non-incendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations, 2004 (''FM Approvals Class Number 3611'')
- Class Number 3615—Approval Standard for Explosionproof Electrical Equipment General Requirements, 2006 (''FM Approvals Class Number 3615'')
- Class Number 3620—Approval Standard for Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations, 2000 (''FM Approvals Class Number 3620'')
- IEC 60079–1—Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures ''d'', Sixth Edition, 2007 (''IEC 60079–1'')
- IEC 60079–2—Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures ''p'', Fifth Edition, 2007 (''IEC 60079–2'')
- IEC 60079–5—Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling ''q'', Third Edition, 2007 (''IEC 60079–5'')
- IEC 60079–6—Explosive Atmospheres—Part 6: Equipment Protection by Oil Immersion ''o'', Third Edition, 2007 (''IEC 60079–6'')
- IEC 60079–7—Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety ''e'', Fourth Edition, 2006 (''IEC 60079–7'')
- IEC 60079–11—Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety ''i'', Sixth Edition, 2011 (''IEC 60079–11'')
- IEC 60079–13—Explosive atmospheres—Part 13: Equipment protection by pressurized room ''p'', Edition 1.0, 2010 (''IEC 60079–13'')
- IEC 60079–15—Explosive Atmospheres—Part 15: Equipment Protection by type of protection ''n'', Edition 4.0, 2010 (''IEC 60079–15'')
- IEC 60079–18—Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation ''m'', Edition 3.0, 2009 (''IEC 60079–18'')
- IEC 60079–25—Explosive Atmospheres—Part 25: Intrinsically safe electrical systems, Edition 2.0, 2010 (''IEC 60079–25'')
- IEC 60092–502—Electrical Installation in Ships—Tankers—Special Features, Fifth Edition, 1999 (''IEC 60092–502'')
- IEC 61892–7, Mobile and Fixed Offshore Units—Electrical Installations—Part 7: Hazardous Areas, Second Edition, 2007 (''IEC 61892–7'')
- NEC 2011—National Electrical Code, 2011 (''NFPA 70'')
- NFPA 496—Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2013 Edition (''NFPA 496'')
- UL 1604—Electrical Equipment for use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations, Third Edition, (''UL 1604'')

The proposed sections that reference these standards and the locations where these standards are available are listed in 46 CFR 110.10–1.

This proposed rule also uses a technical standard other than voluntary consensus standards:

- IMO Resolution A.1023(26), Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009 (''2009 IMO MODU Code'')

The proposed section that references this standard and the locations where this standard is available are listed in 46 CFR 110.10–1. They are used because we did not find voluntary consensus standards that are applicable to this proposed rule. If you are aware of voluntary consensus standards that might apply, please identify them by sending a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you think the standards might apply.

If you disagree with our analysis of the voluntary consensus standards listed above or are aware of voluntary consensus standards that might apply but are not listed, please send a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you disagree with our analysis and/or identify voluntary consensus standards we have not listed that might apply.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule is likely to be categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(d) and (e) of the Instruction and under section 6(a) of the ''Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy'' (67 FR 48243, July 23, 2002). This rule involves regulations concerning inspection and equipping of vessels; regulations concerning equipment approval and carriage requirements; and regulations concerning vessel operation safety standards. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 143

Continental shelf, Marine safety, Occupational safety and health, Vessels.

46 CFR Part 110

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 111

Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 143 and 46 CFR parts 110 and 111 as follows:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER I—COAST GUARD, DEPARTMENT OF HOMELAND SECURITY

Subchapter N—Outer Continental Shelf Activities

PART 143—DESIGN AND EQUIPMENT

■ 1. The authority citation for part 143 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46; section 143.210 is also issued under 14 U.S.C. 664 and 31 U.S.C. 9701.

■ 2. Amend § 143.120 by adding paragraphs (d) and (e) to read as follows:

§ 143.120 Floating OCS facilities.

* * * * *

(d) Each floating OCS facility that is built on or after (30 days after the DATE OF PUBLICATION OF FINAL RULE) and documented under the laws of a foreign nation must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

(e) Each existing floating facility that is documented under the laws of a foreign nation and that has never operated on the OCS must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

■ 3. Add § 143.208 to read as follows:

§ 143.208 Hazardous location requirements on foreign MODUs.

(a) Each mobile offshore drilling unit that is built on or after (30 days after the DATE OF PUBLICATION OF FINAL RULE) and documented under the laws of a foreign nation must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

(b) Each existing mobile offshore drilling unit that is documented under the laws of a foreign nation and that has never operated on the OCS must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

■ 4. Add § 143.302 to read as follows:

§ 143.302 Hazardous location requirements on foreign vessels engaged in OCS activities.

(a) Each vessel that is built on or after (30 days after the DATE OF PUBLICATION OF FINAL RULE) that is documented under the laws of a foreign nation must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

(b) Each existing vessel that is documented under the laws of a foreign nation and that has never operated on the OCS must comply with the requirements of 46 CFR subpart 111.108 prior to engaging in OCS activities.

TITLE 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF HOMELAND SECURITY

Subchapter J—Electrical Engineering

PART 110—GENERAL PROVISIONS

■ 5. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C 1333; 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; § 110.01–2 also issued under 44 U.S.C. 3507.

■ 6. Revise § 110.10–1 to read as follows:

§ 110.10–1 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. The word ''should,'' when used in material incorporated by reference, is to be construed the same as the words ''must'' or ''shall'' for the purposes of this subchapter. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2100 Second Street SW., Stop 7126, Washington, DC 20593–7126, and is available from the sources listed below. It is also available for inspection 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/code_of_federal_regulations/ibr_locations.html.*

(b) *American Bureau of Shipping (ABS),* ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–877–5800, *http://www.eagle.org.*

(1) Rules for Building and Classing Steel Vessels, Part 4 Vessel Systems and Machinery, 2003 (''ABS Steel Vessel Rules''), IBR approved for §§ 110.15–1, 111.01–9, 111.12–3, 111.12–5, 111.12–7, 111.33–11, 111.35–1, 111.70–1, 111.105–31, 111.105–39, 111.105–40, and 113.05–7.

(2) Rules for Building and Classing Mobile Offshore Drilling Units, Part 4 Machinery and Systems, 2001 (''ABS MODU Rules''), IBR approved for §§ 111.12–1, 111.12–3, 111.12–5, 111.12–7, 111.33–11, 111.35–1, and 111.70–1.

(c) *American National Standards Institute (ANSI),* 25 West 43rd Street, New York, NY 10036, 212–642–4900, *http://www.ansi.org/.*

(1) ANSI/IEEE C37.12–1991, American National Standard for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis-Specifications Guide, 1991 (''ANSI/IEEE C37.12''), IBR approved for § 111.54–1.

(2) ANSI/IEEE C37.27–1987 (IEEE Std 331) Application Guide for Low-Voltage AC Nonintegrally Fused Power Circuitbreakers (Using Separately Mounted Current-Limiting Fuses), 1987 (''ANSI/IEEE C37.27''), IBR approved for § 111.54–1.

(3) ANSI/ISA 12.12.01–2012, Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class II, Divisions 1 and 2 Hazardous (Classified) Locations, IBR approved for § 111.108–3(b).

(4) ANSI/ISA 60079–18—Electrical Apparatus for Use in Class I, Zone 1 Hazardous (Classified) Locations: Type of Protection—Encapsulation ''m'', 2012 (''ANSI/ISA 60079–18''), IBR approved for § 111.108–3(e).

(5) ANSI/UL 674—Electric Motors and Generators for Use in Division 1 Hazardous Locations (Classified) Locations, 5th Edition, (''ANSI/UL 674''), IBR approved for § 111.108–3(b).

(6) ANSI/UL 823—Electric Heaters for Use in Hazardous (Classified) Locations, 9th Edition (''ANSI/UL 823''), IBR approved for § 111.108–3(b).

(7) ANSI/UL 844—Electric Lighting Fixtures for Use in Hazardous (Classified) Locations, 13th Edition (''ANSI/UL 844''), IBR approved for § 111.108–3(b).

(8) ANSI/UL 913—Intrinsically Safe Apparatus and Associated Apparatus for use in Class I, II and III, Division 1, Hazardous Locations, 7th Edition (''ANSI/UL 913''), IBR approved for § 111.108–3(b).

(9) ANSI/UL 1203—Explosion-proof and Dust-ignition Proof Electrical Equipment for use in Hazardous (Classified) Locations, 4th Edition (''ANSI/UL 1203''), IBR approved for § 111.108–3(b).

(10) ANSI/UL 2225—Cables and Cable-Fittings for use in Hazardous (Classified) Locations, 3rd Edition (''ANSI/UL 2225''), IBR approved for § 111.108–3(b).

(d) *ASME,* Three Park Avenue, New York, NY 10016, 800–843–2763, *http://www.asme.org:.* (1) ASME A17.1–2000 Part 2 Electric Elevators, (2000) (''ASME A17.1''), IBR approved for § 111.91–1.

(2) [Reserved]

(e) *ASTM International (ASTM),* 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org:*

(1) ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus, (''ASTM B 117''), IBR approved for § 110.15–1.

(2) ASTM F2876–10—Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for use in Hazardous Locations in Marine Applications, (''ASTM F2876–10''), IBR approved for § 111.108–3(g).

(f) *Canadian Standards Association (CSA),* 5060 Spectrum Way, Suite 100, Mississauga, Ontario, L4W 5N6, Canada, 800–463–6727, *http://www.csa.ca/.*

(1) CSA C22.2 No. 0–M91—General Requirements—Canadian Electrical Code, Part II, July 1991, Reaffirmed 2006 (''CSA C22.2 No. 0–M91''), IBR approved for § 111.108–3(b).

(2) CSA C22.2 No. 30–M1986—Explosion-Proof Enclosures for Use in Class I Hazardous Locations, November 1988, Reaffirmed 2007 (''CSA C22.2 No. 30–M1986''), IBR approved for § 111.108–3(b).

(3) CSA C22.2 No. 157–92—Intrinsically Safe and Non-incendive Equipment for Use in Hazardous Locations, June 2003, Reaffirmed 2006 (''CSA C22.2 No. 157–92''), IBR approved for § 111.108–3(b).

(4) CSA C22.2 No. 213–M1987—Non-incendive Electrical Equipment for Use in Class I, Division 2 Hazardous Locations, March 1987, Reaffirmed 2008 (''CSA C22.2 No. 213–M1987''), IBR approved for § 111.108–3(b).

(g) *FM Approvals,* P.O. Box 9102, Norwood, MA 02062, 781–440–8000, *http://www.fmglobal.com:*

(1) Class Number 3600—Approval Standard for Electric Equipment for use in Hazardous (Classified) Locations General Requirements, 1998 (''FM Approvals Class Number 3600''), IBR approved for § 111.108–3(b).

(2) Class Number 3610—Approval Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, 2010 (''FM Approvals Class Number 3610''), IBR approved for § 111.108–3(b).

(3) Class Number 3611—Approval Standard for Non-incendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations, 2004 (''FM Approvals Class Number 3611''), IBR approved for § 111.108–3(b).

(4) Class Number 3615—Approval Standard for Explosionproof Electrical Equipment General Requirements, 2006 (''FM Approvals Class Number 3615''), IBR approved for § 111.108–3(b).

(5) Class Number 3620—Approval Standard for Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations, 2000 (''FM Approvals Class Number 3620''), IBR approved for § 111.108–3(b).

(h) Institute *of Electrical and Electronic Engineers (IEEE),* IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08854, 732–981–0060, *http://www.ieee.org/.*

(1) IEEE Std C37.04–1999 IEEE Standard Rating Structure for AC High-Voltage Circuit Breakers, 1999 (''IEEE C37.04''), IBR approved for § 111.54–1.

(2) IEEE Std C37.010–1999 IEEE Application Guide for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis, 1999 (''IEEE C37.010''), IBR approved for § 111.54–1.

(3) IEEE Std C37.13–1990 IEEE Standard for Low-Voltage AC Power Circuit Breakers Used in Enclosures, October 22, 1990 (''IEEE C37.13''), IBR approved for § 111.54–1.

(4) IEEE Std C37.14–2002 IEEE Standard for Low-Voltage DC Power Circuit Breakers Used in Enclosures, April 25, 2003 (''IEEE C37.14''), IBR approved for § 111.54–1.

(5) IEEE Std 45–1998 IEEE Recommended Practice for Electric Installations on Shipboard—1998, October 19, 1998 (''IEEE 45–1998''), IBR approved for §§ 111.30–19, 111.105–3, 111.105–31, and 111.105–41.

(6) IEEE Std 45–2002 IEEE Recommended Practice for Electrical Installations On Shipboard—2002, October 11, 2002 (''IEEE 45–2002''), IBR approved for §§ 111.05–7, 111.15–2, 111.30–1, 111.30–5, 111.33–3, 111.33–5, 111.40–1, 111.60–1, 111.60–3, 111.60–5, 111.60–11, 111.60–13, 111.60–19, 111.60–21, 111.60–23, 111.75–5, and 113.65–5.

(7) IEEE 100 The Authoritative Dictionary of IEEE Standards Terms, Seventh Edition, 2000 (''IEEE 100''), IBR approved for § 110.15–1.

(i) *International Electrotechnical Commission (IEC),* 3 Rue de Varembe, Geneva, Switzerland, +41 22 919 02 11, *http://www.iec.ch/:*

(1) IEC 68–2–52, Environmental Testing Part 2: Tests—Test Kb: Salt Mist, Cyclic (Sodium Chloride Solution), Second Edition, 1996 (''IEC 68–2–52''), IBR approved for § 110.15–1.

(2) IEC 60331–11 Tests for electric cables under fire conditions—Circuit integrity—Part 11: Apparatus—Fire alone at a flame temperature of at least 750 °C, First Edition, 1999 (''IEC 60331–11''), IBR approved for § 113.30–25.

(3) IEC 60331–21 Tests for Electric Cables Under Fire Conditions—Circuit Integrity—Part 21: Procedures and Requirements—Cables of Rated Voltage up to and Including 0.6/1.0kV, First Edition, 1999 (''IEC 60331–21''), IBR approved for § 113.30–25.

(4) IEC 332–1 Tests on Electric Cables Under Fire Conditions, Part 1: Test on a Single Vertical Insulated Wire or Cable, Third Edition, 1993 (''IEC 332–1''), IBR approved for § 111.30–19.

(5) IEC 60332–3–22 Tests on Electric Cables Under Fire Conditions—Part 3–22: Test for Vertical Flame Spread of Vertically-Mounted Bunched Wires or Cables—Category A, First Edition, 2000 (''IEC 60332–3–22''), IBR approved for §§ 111.60–1, 111.60–2, 111.60–6, and 111.107–1.

(6) IEC 60079–0 Electrical apparatus for Explosive Gas Atmospheres—Part 0: General Requirements, Edition 3.1, 2000 (''IEC 60079–0''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, and 111.105–17.

(7) IEC 60079–1 Electrical Apparatus for Explosive Gas Atmospheres—Part 1: Flameproof Enclosures ''d'' including corr.1, Fourth Edition, June 2001 (''IEC 60079–1''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–9, and 111.105–17.

(8) IEC 60079–1—Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures ''d'', Sixth Edition, 2007 (''IEC 60079–1''), IBR approved for § 111.108–3(b).

(9) IEC 60079–2 Electrical Apparatus for Explosive Gas Atmospheres—Part 2: Pressurized Enclosures ''p'', Fourth Edition, 2001 (''IEC 60079–2''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, and 111.105–17.

(10) IEC 60079–2—Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures ''p'', Fifth Edition, 2007 (''IEC 60079–2''), IBR approved for § 111.108–3(b).

(11) IEC 60079–5 Electrical Apparatus for Explosive Gas Atmospheres—Part 5: Powder Filling ''q'', Second Edition, 1997 (''IEC 60079–5''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17.

(12) IEC 60079–5—Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling ''q'', Third Edition, 2007 (''IEC 60079–5''), IBR approved for § 111.108–3(b).

(13) IEC 60079–6 Electrical Apparatus for Explosive Gas Atmospheres—Part 6: Oil Immersion ''o'', Second Edition, 1995 (''IEC 79–6''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17.

(14) IEC 60079–6—Explosive Atmospheres—Part 6: Equipment Protection by Oil Immersion ''o'', Third Edition, 2007 (''IEC 60079–6''), IBR approved for § 111.108–3(b).

(15) IEC 60079–7 Electrical Apparatus for Explosive Gas Atmospheres—Part 7: Increased Safety ''e'', Third Edition, 2001 (''IEC 60079–7''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17.

(16) IEC 60079–7—Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety ''e'', Fourth Edition, 2006 (''IEC 60079–7''), IBR approved for § 111.108–3(b).

(17) IEC 60079–11 Electrical Apparatus for Explosive Gas Atmospheres—Part 11: Intrinsic Safety ''i'', Fourth Edition, 1999 (''IEC 60079–11''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–11, and 111.105–17.

(18) IEC 60079–11—Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety ''i'', Sixth Edition, 2011 (''IEC 60079–11''), IBR approved for § 111.108–3(b).

(19) IEC 60079–13—Explosive atmospheres—Part 13: Equipment protection by pressurized room ''p'', Edition 1.0, 2010 (''IEC 60079–13''), IBR approved for § 111.108–3(b).

(20) IEC 60079–15 Electrical Apparatus for Explosive Gas Atmospheres—Part 15: Type of Protection ''n'', Second Edition, 2001 (''IEC 60079–15''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17.

(21) IEC 60079–15—Explosive Atmospheres—Part 15: Equipment Protection by type of protection ''n'', Edition 4.0, 2010 (''IEC 60079–15''), IBR approved for § 111.108–3(b).

(22) IEC 60079–18 Electrical Apparatus for Explosive Gas Atmospheres—Part 18: Encapsulation ''m'', First Edition, 1992 (''IEC 79–18''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17.

(23) IEC 60079–18—Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation ''m'', Edition 3.0, 2009 (''IEC 60079–18''), IBR approved for § 111.108–3(e).

(24) IEC 60079–25—Explosive Atmospheres—Part 25: Intrinsically safe electrical systems, Edition 2.0, 2010 (''IEC 60079–25''), IBR approved for § 111.108–3(b).

(25) IEC 60092–101 Electrical Installation in Ships, Part 101: Definitions and General Requirements, Edition 4.1, 2002 (''IEC 60092–101''), IBR approved for §§ 110.15–1 and 111.81–1.

(26) IEC 92–201 Electrical Installation in Ships, Part 201: System Design—General, Fourth Edition, 1994 (''IEC 92–201''), IBR approved for §§ 111.70–3 and 111.81–1.

(27) IEC 92–202 Amendment 1 Electrical Installation in Ships, Part 202: System Design—Protection, 1996 (''IEC 92–202''), IBR approved for §§ 111.12–7, 111.50–3, 111.53–1, and 111.54–1.

(28) IEC 92–301 Amendment 2 Electrical Installation in Ships, Part 301: Equipment—Generators and Motors, 1995 (''IEC 92–301''), IBR approved for §§ 111.12–7, 111.25–5, and 111.70–1.

(29) IEC 60092–302 Electrical Installation in Ships, Part 302: Low-Voltage Switchgear and Control Gear Assemblies, Fourth Edition, 1997 (''IEC 60092–302''), IBR approved for §§ 111.30–1, 111.30–5, and 111.30–19.

(30) IEC 92–303 Electrical Installation in Ships, Part 303: Equipment—Transformers for Power and Lighting, Third Edition, 1980 (''IEC 92–303''), IBR approved for § 111.20–15.

(31) IEC 92–304 Amendment 1 Electrical Installation in Ships, Part 304: Equipment—Semiconductor Convertors, 1995 (''IEC 92–304''), IBR approved for §§ 111.33–3 and 111.33–5.

(32) IEC 92–306 Electrical Installation in Ships, Part 306: Equipment—Luminaries and accessories, Third Edition, 1980 (''IEC 92–306''), IBR approved for §§ 111.75–20 and 111.81–1.

(33) IEC 60092–352 Electrical Installation in Ships—Choice and Installation of Cables for Low-Voltage Power Systems, Second Edition, 1997 (''IEC 60092–352''), IBR approved for §§ 111.60–3, 111.60–5, and 111.81–1.

(34) IEC 92–353 Electrical Installations in Ships—Part 353: Single and Multicore Non-Radial Field Power Cables with Extruded Solid Insulation for Rated Voltages 1kV and 3kV, Second Edition, 1995 (''IEC 92–353''), IBR approved for §§ 111.60–1, 111.60–3, and 111.60–5.

(35) IEC 92–401 Electrical Installations in Ships, Part 401: Installation and Test of completed Installation with amendment 1 (1987) and amendment 2 (1997), Third Edition, 1980 (''IEC 92–401''), IBR approved for §§ 111.05–9 and 111.81–1.

(36) IEC 60092–502 Electrical Installation in Ships, Part 502: Tankers—Special Features, 1999 (''IEC 60092–502''), IBR approved for §§ 111.81–1, 111.105–31, and 111.108–3(b).

(37) IEC 92–503 Electrical installations in ships, Part 503: Special features: A.C. supply systems with voltages in the range of above 1kV up to and including 11kV, First Edition, 1975 (''IEC 92–503''), IBR approved for § 111.30–5.

(38) IEC 60529 Degrees of Protection Provided by Enclosures (IP Code), Edition 2.1, 2001 (''IEC 60529''), IBR approved for §§ 110.15–1, 111.01–9, 113.10–7, 113.20–3, 113.25–11, 113.30–25, 113.37–10, 113.40–10, and 113.50–5.

(39) IEC 60533 Electrical and Electronic Installations in Ships—Electromagnetic Compatibility, Second Edition, 1999 (''IEC 60533''), IBR approved for § 113.05–7.

(40) IEC 60947–2 Low-Voltage Switchgear and Controlgear Part 2: Circuit-Breakers, Third Edition, 2003 (''IEC 60947–2''), IBR approved for § 111.54–1.

(41) IEC 61363–1 Electrical Installations of Ships and Mobile and Fixed Offshore Units—Part 1: Procedures for Calculating Short-Circuit Currents in Three-Phase a.c., First Edition, 1998 (''IEC 61363–1''), IBR approved for § 111.52–5.

(42) IEC 61892–7, Mobile and Fixed Offshore Units—Electrical Installations—Part 7: Hazardous Areas, Second Edition, 2007 (''IEC 61892–7''), IBR approved for § 111.108–3(b).

(43) IEC 62271–100, High-voltage switchgear and controlgear—part 100: High-voltage alternating current circuitbreakers, Edition 1.1, 2003 (''IEC 62271–100''), IBR approved for § 111.54–1.

(j) *International Maritime Organization (IMO),* 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0) 20 7735 7611, *http://www.imo.org:*

(1) International Convention for the Safety of Life at Sea (SOLAS), Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988: Article, Annexes and Certificates. (Incorporating all Amendments in Effect from January 2001), 2001 (''IMO SOLAS 74''), IBR approved for §§ 111.99–5, 111.105–31, 112.15–1, and 113.25–6.

(2) IMO Resolution A.1023(26), Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009 (''2009 IMO MODU Code''), IBR approved for § 111.108–3(b).

(k) *International Society of Automation (ISA),* 67 T.W. Alexander Drive, Research Triangle Park, NC 27709, 919–549–8411, *http://www.isa.org/.*

(1) RP 12.6, Wiring Practices for Hazardous (Classified) Locations Instrumentation Part I: Intrinsic Safety, 1995 (''ISA RP 12.6''), IBR approved for § 111.105–11.

(2) [Reserved]

(l) *Lloyd's Register,* 71 Fenchurch Street, London EC3M 4BS, UK, +44–0–20–7709–9166, *http://www.lr.org/.*

(1) Type Approval System-Test Specification Number 1, 2002, IBR approved for § 113.05–7.

(2) [Reserved]

(m) *National Electrical Manufacturers Association (NEMA),* 1300 North 17th Street, Arlington, VA 22209, 703–841–3200, *http://www.nema.org/.*

(1) NEMA Standards Publication ICS 2–2000, Industrial Control and Systems Controllers, Contactors, and Overload Relays, Rated 600 Volts, 2000 (''NEMA ICS 2''), IBR approved for § 111.70–3.

(2) NEMA Standards Publication ICS 2.3–1995, Instructions for the Handling, Installation, Operation, and Maintenance of Motor Control Centers Rated not More Than 600 Volts, 1995 (''NEMA ICS 2.3''), IBR approved for § 111.70–3.

(3) NEMA Standards Publication No. ICS 2.4–2003, NEMA and IEC Devices for Motor Service—a Guide for Understanding the Differences, 2003 (''NEMA ICS 2.4''), IBR approved for § 111.70–3.

(4) NEMA Standards Publication No. ANSI/NEMA 250–1997, Enclosures for Electrical Equipment (1000 Volts Maximum), August 30, 2001 (''NEMA 250''), IBR approved for §§ 110.15–1, 111.01–9, 110.15–1, 113.10–7, 113.20–3, 113.25–11, 113.30–25, 113.37–10, 113.40–10, and 113.50–5.

(5) NEMA Standards Publication No. WC–3–1992, Rubber Insulated Wire and Cable for the Transmission and Distribution of Electrical Energy, Revision 1, February 1994 (''NEMA WC–3''), IBR approved for § 111.60–13.

(6) NEMA WC–70/ICEA S–95–658–1999 Standard for Non-Shielded Power Rated Cable 2000V or Less for the Distribution of Electrical Energy, 1999 (''NEMA WC–70''), IBR approved for § 111.60–13.

(n) *National Fire Protection Association (NFPA),* 1 Batterymarch Park, Quincy, MA 02169, 617–770–3000, *http://www.nfpa.org.*

(1) NEC 2002 (NFPA 70), National Electrical Code Handbook, Ninth Edition, 2002 (''NFPA NEC 2002''), IBR approved for §§ 111.05–33, 111.20–15, 111.25–5, 111.50–3, 111.50–7, 111.50–9, 111.53–1, 111.54–1, 111.55–1, 111.59–1, 111.60–7, 111.60–13, 111.60–23, 111.81–1, 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–9, 111.105–15, 111.105–17, and 111.107–1.

(2) NEC 2011—National Electrical Code, 2011 (''NFPA 70''), IBR approved for § 111.108–3(b).

(3) NFPA 77, Recommended Practice on Static Electricity, 2000 (''NFPA 77''), IBR approved for § 111.105–27.

(4) NFPA 99, Standard for Health Care Facilities, 2005 (''NFPA 99''), IBR approved for § 111.105–37.

(5) NFPA 496, Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2013 (''NFPA 496''), IBR approved for § 111.108–3(d).

(o) *Naval Publications and Forms Center (NPFC),* Department of Defense, Single Stock Point, 700 Robins Avenue, Philadelphia, PA 19111.

(1) MIL–C–24640A, Military Specification Cables, Light Weight, Electric, Low Smoke, for Shipboard Use, General Specification for (1995) Supplement 1, June 26, 1995 (''NPFC MIL–C–24640A''), IBR approved for §§ 111.60–1 and 111.60–3.

(2) MIL–C–24643A, Military Specification Cables and Cords, Electric, Low Smoke, for Shipboard Use, General Specification for (1996) Amendment 2, March 13, 1996 (''NPFC MIL–C–24643A''), IBR approved for §§ 111.60–1 and 111.60–3.

(3) MIL–W–76D, Military Specification Wire and Cable, Hook-Up, Electrical, Insulated, General Specification for (2003) (Revision of MIL–W–76D–1992) Amendment 1–2003, February 6, 2003 (''NPFC MIL–W–76D''), IBR approved for § 111.60–11.

(p) *Naval Sea Systems Command (NAVSEA),* 1333 Isaac Hull Avenue SE., Washington, DC 20376, 202–781–0000, *http://www.navsea.navy.mil.*

(1) DDS 300–2, A.C. Fault Current Calculations, 1988 (''NAVSEA DDS 300–2''), IBR approved for § 111.52–5.

(2) MIL–HDBK–299(SH), Military Handbook Cable Comparison Handbook Data Pertaining to Electric Shipboard Cable Notice 1–1991 (Revision of MIL–HDBK–299(SH) (1989)), October 15, 1991 (''NAVSEA MIL–HDBK–299(SH)''), IBR approved for § 111.60–3.

(q) *UL,* 2600 NW. Lake Road, Camas, WA, 98607, 877–854–3577, *http://www.ul.com:*

(1) UL 44, Standard for Thermoset-Insulated Wire and Cable, Fifteenth Edition, (Revisions through and including May 13, 2002), March 22, 1999 (''UL 44''), IBR approved for § 111.60–11.

(2) UL 50, Standard for Safety Enclosures for Electrical Equipment, Eleventh Edition, October 19, 1995 (''UL 50''), IBR approved for § 111.81–1.

(3) UL 62, Standard for Flexible Cord and Fixture Wire, Sixteenth Edition, October 15, 1997 (''UL 62''), IBR approved for § 111.60–13.

(4) UL 83, Standard for Thermoplastic-Insulated Wires and Cables, Twelfth Edition, September 29, 1998 (''UL 83''), IBR approved for § 111.60–11.

(5) UL 484, Standard for Room Air Conditioners, Seventh Edition, (Revisions through and including Sep. 3, 2002), April 27, 1993 (''UL 484''), IBR approved for § 111.87–3.

(6) UL 489, Molded-Case Circuit Breakers, Molded-Case Switches, and Circuit-Breaker Enclosures, Ninth Edition, (Revisions through and including Mar. 22, 2000), October 31, 1996 (''UL 489''), IBR approved for §§ 111.01–15 and 111.54–1.

(7) UL 514A, Metallic Outlet Boxes, Ninth Edition, December 27, 1996 (''UL 514A''), IBR approved for § 111.81–1.

(8) UL 514B, Conduit, Tubing, and Cable Fittings, Fourth Edition, November 3, 1997 (''UL 514B''), IBR approved for § 111.81–1.

(9) UL 514C, Standard for Nonmetallic Outlet Boxes, Flush-Device Boxes, and Covers, Second Edition, October 31, 1988 (''UL 514C''), IBR approved for § 111.81–1.

(10) UL 913, Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class i, ii, and iii, Division 1, Hazardous (Classified) Locations, Sixth Edition, (Revisions through and including Dec. 15, 2003) August 8, 2002 (''UL 913''), IBR approved for § 111.105–11.

(11) UL 1042, Standard for Electric Baseboard Heating Equipment, April 11, 1994 (''UL 1042''), IBR approved for § 111.87–3.

(12) UL 1072, Standard for Medium-Voltage Power Cables, Third Edition, (Revisions through and including Apr. 14, 2003), December 28, 2001 (''UL 1072''), IBR approved for § 111.60–1.

(13) UL 1104, Standard for Marine Navigation Lights, 1998 (''UL 1104''), IBR approved for § 111.75–17.

(14) UL 1203, Standard for Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations, Third Edition, (Revisions through and including Apr. 30, 2004), September 7, 2000 (''UL 1203''), IBR approved for § 111.105–9.

(15) UL 1309, Marine Shipboard Cables, First Edition, July 14, 1995 (''UL 1309''), IBR approved for §§ 111.60–1 and 111.60–3.

(16) UL 1581, May 6, 2003, (''UL 1581''), IBR approved for §§ 111.30–19, 111.60–2, and 111.60–6.

(17) UL 1598, Luminaires, First Edition, January 31, 2000 (''UL 1598''), IBR approved for § 111.75–20.

(18) UL 1598A, Standard for Supplemental Requirements for Luminaires for Installation on Marine Vessels, First Edition, December 4, 2000 (''UL 1598A''), IBR approved for § 111.75–20.

(19) UL 1604—Electrical Equipment for use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations, Third Edition, (''UL 1604''), IBR approved for § 111.108–3(b).

■ 7. Amend § 110.15–1(b) by adding, in alphabetical order, the definitions for

''''IECEx System'', ''Outer Continental Shelf (OCS)'', ''OCS activity'', ''Special Division 1'', ''Zone 0'', ''Zone 1'', and ''Zone 2'' to read as follows:

§ 110.15–1 Definitions.

* * * * *

(b) * * *

IECEx System means an international certification system covering equipment that meets the provisions of the IEC 60079 (incorporated by reference, see § 110.10–1(i)) series of standards. The IECEx System is comprised of an Ex Certification Body and an Ex Testing Laboratory that has been accepted into the IECEx System after satisfactory assessment of their competence to ISO/IEC Standard 17025, ISO/IEC Guide 65, IECEx rules of procedures, IECEx operational documents, and IECEx technical guidance documents as part of the IECEx assessment process.

* * * * *

OCS activity has the same meaning as 33 CFR 140.10.

Outer Continental Shelf (OCS) has the same meaning as 33 CFR 140.10.

* * * * *

Special Division 1 is a Class I, Zone 0 hazardous location in Article 505 of the National Electrical Code (incorporated by reference, see § 110.10–1(n)(2)) that may require special considerations for electrical equipment installed in such locations.

* * * * *

Zone 0 is a hazardous location in which an explosive gas or vapor in mixture with air is continuously present or present for long periods.

Zone 1 is a hazardous location in which an explosive gas or vapor in mixture with air is likely to occur in normal operating conditions.

Zone 2 is a hazardous location in which an explosive gas or vapor in mixture with air is not likely to occur in normal operating conditions, or in which such a mixture, if it does occur, will only exist for a short time.

■ 8. Amend § 110.25–1 by adding paragraphs (p) and (q) to read as follows:

§ 110.25–1 Plans and information required for new construction.

(p) [Reserved]

(q) For vessels with hazardous locations to which subpart 111.108 of this part applies, plans showing the extent and classification of all hazardous locations, including information on—

(1) Equipment identification by manufacturer's name and model number;

(2) Equipment use within the system;

(3) Parameters of intrinsically safe systems, including cables;

(4) Equipment locations;

(5) Installation details and/or approved control drawings; and

(6) A certificate of testing, and listing or certification, by an independent laboratory or an IECEx Certificate of Conformity under the IECEx System, where required by the respective standard in § 111.108–3(b)(1), (2), or (3) of this subchapter.

PART 111—ELECTRIC SYSTEMS GENERAL REQUIREMENTS

■ 9. The authority citation for part 111 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Department of Homeland Security Delegation No. 0170.1.

■ 10. Add subpart 111.108 to read as follows:

Subpart 111.108—Hazardous locations requirements on U.S. and foreign MODUs, floating OCS facilities and vessels conducting OCS activities, and U.S. vessels that carry flammable and combustible cargo

Sec.
111.108–1 Applicability.
111.108–2 Reserved.
111.108–3 General requirements.

§ 111.108–1 Applicability.

This subpart applies to:

(a) U.S. MODUs, floating OCS facilities, and vessels, other than offshore supply vessels regulated under 46 CFR subchapter L, built on or after (30 days after DATE OF PUBLICATION OF FINAL RULE) that engage in OCS activities.

(b) Foreign MODUs, floating OCS facilities, and vessels that have never operated on the OCS that engage in OCS activities on or after (30 days after DATE OF PUBLICATION OF FINAL RULE).

(c) U.S. MODUs, floating OCS facilities, and vessels, other than offshore supply vessels regulated under 46 CFR subchapter L, that engage in OCS activities and U.S. tank vessels that carry flammable and combustible cargoes and may comply with this subpart in lieu of §§ 111.105–1 through 111.105–15 of this part. All other sections of subpart 111.105 of this part remain applicable.

§ 111.108–2 [Reserved]

§ 111.108–3 General requirements.

(a) Electrical installations in hazardous locations, where necessary for operational purposes, must be located in the least hazardous location practicable.

(b) Electrical installations in hazardous locations must comply with paragraphs (b)(1), (b)(2), or (b)(3) of this section.

(1) NFPA 70 (NEC 2011) Articles 500 through 504 (incorporated by reference, see § 110.10–1(n)(2)). Equipment required to be identified for Class I locations must meet the provisions of Sections 500.7 and 500.8 of NFPA 70 and must be tested and listed by an independent laboratory to any of the following standards:

(i) ANSI/UL 674, ANSI/UL 823, ANSI/UL 844, ANSI/UL 913, ANSI/UL 1203, UL 1604 (replaced by ANSI/ISA 12.12.01)or ANSI/UL 2225 (incorporated by reference, see § 110.10–1(c) and (q)).

(ii) FM Approvals Class Number 3600, Class Number 3610, Class Number 3611, Class Number 3615, or Class Number 3620 (incorporated by reference, see § 110.10–1(g)).

(iii) CSA C22.2 Nos. 0–M91, 30–M1986, 157–92, or 213–M1987 (incorporated by reference, see § 110.10–1(f)).

Note to § 111.108–3(b)(1): See Article 501.5 of NFPA 70 (incorporated by reference, see § 110.10–1(n)(2)) for use of Zone equipment in Division designated spaces.

(2) NFPA 70 Article 505 (incorporated by reference, see § 110.10–1(n)(2)). Equipment required to be identified for Class I locations must meet the provisions of Sections 505.7 and 505.9 of NPFA 70 and must be tested and listed by an independent laboratory to one or more of the types of protection in ANSI/ISA Series of standards incorporated in NFPA 70 (incorporated by reference, see § 110.10–1(n)(2)).

Note to § 111.108–3(b)(2): See Article 505.9(c)(1) of the NFPA 70 (incorporated by reference, see § 110.10–1(n)(2)) for use of Division equipment in Zone designated spaces.

(3) Clause 6 of IEC 61892–7 (incorporated by reference, see § 110.10–1(i)(44)) for all U.S. and foreign floating OCS facilities and vessels on the U.S. OCS or on the waters adjacent thereto; chapter 6 of 2009 IMO MODU Code (incorporated by reference, see § 110.10–1(j)(2)) for all U.S. and foreign MODUs; or clause 6 of IEC 60092–502 (incorporated by reference, see § 110.10–1(i)(36)) for U.S. tank vessels that carry flammable and combustible cargoes. Electrical apparatus in hazardous locations must be tested to IEC 60079–1, –2, –5, –6, –7, –11, –13, –15, –18 or –25 (incorporated by reference, see § 110.10–1(i)) and certified by an independent laboratory under the IECEx System.

(c) System components that are listed or certified under paragraph (b)(1), (b)(2), or (b)(3) of this section must not be combined in a manner that would compromise system integrity or safety.

(d) As an alternative to paragraph (b)(1) of this section, electrical equipment that complies with the provisions of NFPA 496 (incorporated by reference, see § 110.10–1(n)(5)) is acceptable for installation in Class I, Divisions 1 and 2. When equipment meeting this standard is used, it does not need to be identified and marked by an independent laboratory. The Commanding Officer, Marine Safety Center (MSC) will evaluate equipment complying with this standard during plan review. It is normally considered acceptable if a manufacturer's certification of compliance is indicated on a material list or plan.

(e) Equipment listed or certified to ANSI/ISA 60079–18 or IEC 60079–18, respectively, (incorporated by reference, see § 110.10–1(i)(23)) is not permitted in Class I, Special Division 1 or Zone 0 hazardous locations unless the encapsulating compound of Ex ''ma'' protected equipment is not exposed to, or has been determined to be compatible with, the liquid or cargo in the storage tank.

(f) Submerged pump motors that do not meet the requirements of § 111.105–31(d) of this part, installed in tanks carrying flammable or combustible liquids with closed-cup flashpoints not exceeding 60° C (140° F), must receive concept approval by the Commandant (CG–ENG) and plan approval by the Commanding Officer, MSC.

(g) Internal combustion engines installed in Class I, Divisions 1 and 2 (Class I and IEC, Zones 1 and 2) must meet the provisions of ASTM F2876–10 (incorporated by reference, see § 110.10–1(e)(2)).

Dated: June 5, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards, United States Coast Guard.

[FR Doc. 2013–14951 Filed 6–21–13; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 78, No. 121
Monday, June 24, 2013

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

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of July 9 President's Global Development Council Meeting

AGENCY: United States Agency for International Development.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the President's Global Development Council (GDC).

Date: Tuesday, July 9, 2013.

Time: 10:00 a.m.–11:30 a.m.

Location: Eisenhower Executive Office Building, South Court Auditorium, Pennsylvania Avenue and 17th Street NW., Washington, DC 20500.

Agenda

I. Opening Remarks: Vision for the GDC

II. Overview of the GDC's Role & Efforts

III. Presentations on Key Issues

IV. Request for Feedback and Q&A

Stakeholders

The meeting is free and open to the public. RSVPs are required. Persons wishing to attend should RSVP to *Interest_GDC@who.eop.gov* by July 7. Please note that capacity is limited. Additional information on web streaming will be forthcoming on *www.whitehouse.gov*.

FOR FURTHER INFORMATION CONTACT: Jayne Thomisee, 202–712–5506.

Dated: June 17, 2013.

Jayne Thomisee,

Executive Director & Policy Advisor, U.S. Agency for International Development.

[FR Doc. 2013–15047 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. APHIS–2012–0104]

Privacy Act Systems of Records; Phytosanitary Certificate Issuance and Tracking System

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a proposed new system of records.

SUMMARY: The Animal and Plant Health Inspection Service proposes to add a system of records to its inventory of records systems subject to the Privacy Act of 1974, as amended. The system of records is the Phytosanitary Certificate Issuance and Tracking System, USDA–APHIS–13. This notice is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of record systems maintained by the agency.

DATES: *Effective Date:* This system will be adopted without further notice on August 5, 2013 unless modified to respond to comments received from the public and published in a subsequent notice.

Comment Date: Comments must be received in writing on or before July 24, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0104-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0104, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0104* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Christian B. Dellis, Export Services, Plant Health Programs, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737; (301) 851–2154.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a), requires agencies to publish in the **Federal Register** notice of new or revised systems of records maintained by the agency. A system of records is a group of any records under the control of any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to an individual.

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) is proposing to add a new system of records, entitled Phytosanitary Certificate Issuance and Tracking (PCIT) System, that will be used to maintain records of activities conducted by the agency pursuant to its mission and responsibilities authorized by the Plant Protection Act (7 U.S.C. 7701 *et seq.*). Phytosanitary certificates are issued by authorized Federal, State, and county officials. They certify that consignments of plants, plant products, and other regulated articles intended for export have been inspected and meet the phytosanitary import requirements of the foreign country to which they are destined. There is a user fee charge for the inspection and certification services. Phytosanitary certificates accompany shipments to their foreign destinations and are reviewed by officials of the foreign plant protection service before the commodity is allowed entry into their country. U.S. exporters who require phytosanitary certificates for commodities offered for export must apply for them through the PCIT system.

The PCIT system provides a secure mechanism for applicants to provide information, including the name, address, and telephone number of the exporter or exporter's agent and the foreign consignee, which could be individuals but, in most cases, are companies or organizations. Applicants also must provide information about the articles to be exported. APHIS needs all of this information to evaluate the application, schedule and perform inspections and other phytosanitary activities, and issue phytosanitary

certificates. Authorized Federal, State, and county certification officials enter data into the PCIT system regarding inspections, any required treatments, and other phytosanitary activities. The PCIT system also maintains information on user fees paid and accrued, although the system does not contain any financial information about applicants.

Applicants can use the PCIT system not only to apply for phytosanitary certificates, but also to check the status of their applications, view user fees accrued and paid, and track the status of phytosanitary certification. Foreign government officials can use the PCIT system to quickly verify the authenticity of a phytosanitary certificate.

APHIS may routinely share data in the PCIT system with State and county government officials who provide phytosanitary inspection services on behalf of the Federal Government. They use the information to evaluate applications; schedule and perform inspections and related phytosanitary activities; generate phytosanitary certificates; investigate complaints by a foreign country that a commodity for which a phytosanitary certificate was issued does not meet the country's phytosanitary requirements; and evaluate program quality and effectiveness. APHIS may also share data with certain Federal agencies, pursuant to the International Trade Data System Memorandum of Understanding, consistent with the receiving agency's authority to collect information pertaining to transactions in international trade. APHIS may also share data about an application for phytosanitary certificate with the foreign government involved with the import.

Other routine uses of this information include releases related to investigations pertaining to violations of law or related to litigation. A complete listing of the routine uses for this system is included in the description of the system presented below.

Report on New System of Records

A report on the new system of records, required by 5 U.S.C. 552a(r), as implemented by Office of Management and Budget Circular A–130, has been sent to the Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate; the Chairman, Committee on Oversight and Government Reform, House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Thomas J. Vilsack,

Secretary.

System name:

Phytosanitary Certificate Issuance and Tracking (PCIT) System, USDA–APHIS–13.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The system resides at USDA's National Information Technology Center (NITC) in Kansas City, MO. Back-up files are maintained in Riverdale, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include Federal, State, and county officials who issue phytosanitary certificates and exporters, exporters' agents, and foreign consignees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include applications for phytosanitary export certification and information about related inspections, treatments, other phytosanitary activities, and phytosanitary certificates issued. These records include names, addresses, and telephone numbers of exporters, exporters' agents, and foreign consignees, and names, office addresses, and telephone numbers of Federal, State, and county officials who issue phytosanitary certificates. Records may also include information on user fees paid and accrued, although the system does not contain any financial information about applicants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Plant Protection Act (7 U.S.C. 7701 *et seq.*).

PURPOSE(S):

The PCIT system is a secure system for applying for, evaluating, tracking the status of, and issuing phytosanitary certificates for plants, plant products, and other regulated articles intended for export.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records maintained in the system may be disclosed outside USDA as follows:

(1) To certain State and county government regulatory officials to evaluate applications; schedule and perform inspections and related phytosanitary activities; generate phytosanitary certificates; investigate complaints about noncompliance with phytosanitary requirements; and evaluate program quality and effectiveness;

(2) To certain Federal agencies, pursuant to the International Trade Data System Memorandum of Understanding, consistent with the receiving agency's authority to collect information pertaining to transactions in international trade;

(3) To certain foreign governments concerning applications for phytosanitary certificates involving that country;

(4) To the appropriate agency, whether Federal, State, local, or foreign, charged with responsibility of investigating or prosecuting a violation of law or of enforcing, implementing, or complying with a statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and either arising by general statute or particular program statute, or by rule, regulation, or court order issued pursuant thereto;

(5) To the Department of Justice when: (a) the agency, or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected;

(6) For use in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when: (a) the agency, or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records

that is compatible with the purpose for which the records were collected;

(7) To appropriate agencies, entities, and persons when: (a) the agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the agency has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, a risk of identity theft or fraud, or a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by the agency or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the agency's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(8) To contractors engaged to assist in administering the program. Such contractors will be bound by the nondisclosure provisions of the Privacy Act;

(9) To USDA contractors, partner agency employees or contractors, or private industry employed to identify patterns, trends, or anomalies indicative of fraud, waste, or abuse; and

(10) To the National Archives and Records Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The system is an electronic database stored on servers in a secure government-owned facility. APHIS maintains back-up files on external hard drives kept in locked cabinets at APHIS headquarters.

RETRIEVABILITY:

APHIS may retrieve records by the name of the applicant (exporter or exporter's agent who applied for the phytosanitary certificate) and by the name of the Federal, State, or county official who issued the phytosanitary certificate.

SAFEGUARDS:

The PCIT system has management, operational, and technical controls to prevent misuse of data by system users. These controls include the use of role-based security and access rights and network firewalls. All users must have e-Authentication credentials through USDA and employ their individual e-Authentication user identification and password to access the PCIT system. Users may only view information specific to their role in the export system. The exporter has access only to the information of his or her organization. Government officials involved in the export of commodities will have access only to data within their purview. Access to the system is monitored by USDA officials to ensure authorized and appropriate use of the data.

RETENTION AND DISPOSAL:

Records in the PCIT system are retained indefinitely.

SYSTEM MANAGERS(S) AND ADDRESS:

Director, Export Services, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737.

NOTIFICATION PROCEDURE:

Any individual may request general information regarding this system of records or information as to whether the system contains records pertaining to him/her from the system manager at the address above. All inquiries pertaining to this system should be in writing, must name the system of records as set forth in the system notice, and must contain the individual's name, telephone number, address, and email address.

RECORD ACCESS PROCEDURES:

Any individual may obtain information from a record in the system that pertains to him or her. Requests for hard copies of records should be in writing, and the request must contain the requesting individual's name, address, name of the system of records, timeframe for the records in question, any other pertinent information to help identify the file, and a copy of his/her photo identification containing a current address for verification of identification. All inquiries should be addressed to the Freedom of Information and Privacy Act Staff, Legislative and Public Affairs, APHIS, 4700 River Road Unit 50, Riverdale, MD 20737–1232.

CONTESTING RECORD PROCEDURES:

Any individual may contest information contained within a record in the system that pertains to him/her by submitting a written request to the system manager at the address above. Include the reason for contesting the record and the proposed amendment to the information with supporting documentation to show how the record is inaccurate.

RECORD SOURCE CATEGORIES:

Information in this system about individuals comes primarily from applicants for a phytosanitary certificate.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–14929 Filed 6–21–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0041]

Notice of Request for Extension of Approval of an Information Collection; Cooperative Agricultural Pest Survey

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the Cooperative Agricultural Pest Survey.

DATES: We will consider all comments that we receive on or before August 23, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0041-0001*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0041, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0041* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Cooperative Agricultural Pest Survey, contact Dr. John Bowers, National Survey Coordinator, PDEP, PPQ, APHIS, 4700 River Road, Unit 26, Riverdale, MD 20737; (301) 851–2087. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Cooperative Agricultural Pest Survey.

OMB Number: 0579–0010.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized, either independently or in cooperation with States, to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests and noxious weeds that are new to or not widely distributed within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS).

To carry out this mission, APHIS' Plant Protection and Quarantine (PPQ) program has joined forces with the States and other agencies to create a program called the Cooperative Agricultural Pest Survey (CAPS). The CAPS program coordinates these efforts through cooperative agreements with the States and other agencies to collect and manage data on plant pests, noxious weeds, and biological control agents, which may be used to control plant pests or noxious weeds.

This program allows the States and PPQ to conduct surveillance activities to detect and measure the presence of exotic plant pests and weeds and to enter surveillance data into a national computer-based system known as the National Agricultural Pest Information System (NAPIS). This, in turn, allows APHIS to obtain a more comprehensive picture of plant pest conditions in the United States, as well as detect, in collaboration with the National Plant Diagnostic Network and the U.S. Department of Agriculture's (USDA's) National Institute of Food and Agriculture (NIFA), population trends that could indicate an agricultural bioterrorism act.

The information captured by CAPS and generated by NAPIS is used by States to predict potential plant pest and noxious weed situations in the United States and by Federal interests (e.g., PPQ and NIFA) to promptly detect and respond to the occurrence of new plant pests or noxious weeds and to provide documentation on plant pests and noxious weeds to facilitate and record the location of those incursions that could directly hinder the export of U.S. farm commodities. The system also provides data management support for PPQ programs, such as imported fire ant, *Phytophthora ramorum* (sudden oak death), and gypsy moth.

The CAPS program involves certain information collection activities, including cooperative agreements, pest detection surveys, and the USDA, APHIS Specimens for Determination (PPQ Form 391).

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.2376 hours per response.

Respondents: State Cooperators participating in CAPS and not-for-profit organizations.

Estimated annual number of respondents: 54.

Estimated annual number of responses per respondent: 270.

Estimated annual number of responses: 14,580.

Estimated total annual burden on respondents: 3,465 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 19th day of June 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–15046 Filed 6–21–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0040]

Notice of Request for Extension of Approval of an Information Collection; Export Health Certificate for Animal Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the export of animal products from the United States.

DATES: We will consider all comments that we receive on or before August 23, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0040-0001*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0040, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0040* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the export of animal products from the United States, contact Dr. Eric Coleman, Assistant Director for Export Products, Export Products,

National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 40, Riverdale, MD 20737; (301) 851–3300. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Export Health Certificate for Animal Products.

OMB Number: 0579–0256.

Type of Request: Extension of approval of an information collection.

Abstract: The export of agricultural commodities, including animals and animal products, is a major business in the United States and contributes to a favorable balance of trade. To facilitate the export of U.S. animals and products, U.S. Department of Agriculture's (USDA's) Animal and Plant Health Inspection Service (APHIS) maintains information regarding the import health requirements of other countries for animals and animal products exported from the United States. The regulations for export certification of animals and animal products are contained in 9 CFR parts 91 and 156.

Many countries that import animal products from the United States require a certification from APHIS that the United States is free of certain diseases. These countries may also require that our certification statement contain additional declarations regarding the U.S. animal products being exported. This certification must carry the USDA seal and be endorsed by an APHIS representative (e.g., a Veterinary Medical Officer). The certification process involves the use of information collection activities, including an Export Health Certificate for Animal Products Form/Continuation Sheet (Veterinary Services (VS) Forms 16–4/16–4A), and if a certificate is denied or withdrawn by VS, an exporter can request a hearing to appeal VS' decision.

These information collection activities were previously approved by the Office of Management and Budget (OMB) with an estimated total annual burden on respondents of 66,266 hours and an estimated annual number of responses of 133,652. Due to the increase in exports in response to market forces, the number of respondents has increased to 42,000, which has also increased the estimated annual number of responses to 178,502. However, we have decreased the estimated total annual burden on respondents from 66,266 hours to 57,122 hours because respondents indicated that the time needed to complete VS Form 16–4 was less than our previous estimate.

We are asking OMB to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.32 hours per response.

Respondents: Exporters of U.S. animal products.

Estimated annual number of respondents: 42,000.

Estimated annual number of responses per respondent: 4.25.

Estimated annual number of responses: 178,502.

Estimated total annual burden on respondents: 57,122 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 19th day of June 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–15002 Filed 6–21–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0029]

Notice of Request for Extension of Approval of an Information Collection; Untreated Oranges, Tangerines, and Grapefruit From Mexico Transiting the United States to Foreign Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the regulations for the transit of untreated oranges, tangerines, and grapefruit from Mexico through the United States to foreign countries.

DATES: We will consider all comments that we receive on or before August 23, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0029-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0029, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0029* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the transit of untreated oranges, tangerines, and grapefruit from Mexico through the United States to foreign countries, contact Mr. Luis Feliciano, Permit Analyst, RPM, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale MD 20737; (301) 851–2028. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles,

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

SUPPLEMENTARY INFORMATION:

Title: Untreated Oranges, Tangerines, and Grapefruit from Mexico Transiting the United States to Foreign Countries.

OMB Number: 0579–0303.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into or their dissemination within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service.

The plant quarantine safeguard regulations in title 7, Code of Federal Regulations, part 352 allow certain products or articles that are classified as prohibited or restricted under other regulations in title 7 to be moved into or through the United States under certain conditions. Such articles include fruits and vegetables that are moved into the United States for: (1) A temporary stay where unloading or landing is not intended; (2) unloading or landing for transshipment and exportation; (3) unloading or landing for transportation and exportation; or (4) unloading and entry at a port other than the port of first arrival. Fruits and vegetables that are moved into the United States under these circumstances are subject to inspection and must be handled in accordance with conditions assigned under the safeguard regulations to prevent the introduction and dissemination of plant pests.

In accordance with § 352.30, untreated oranges, tangerines, and grapefruit from Mexico may be moved into or through the United States in transit to foreign countries under certain conditions to prevent the introduction of plant pests into the United States. These conditions involve the use of an information collection that includes an Application for Permit to Transit Plants and/or Plant Products, Plant Pests, and/or Associated Soil Through the United States (Plant Protection and Quarantine Form 586).

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Shippers.

Estimated annual number of respondents: 25.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 25.

Estimated total annual burden on respondents: 12.5 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 19th day of June 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–15003 Filed 6–21–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0051]

Notice of Request for Extension of Approval of an Information Collection; Importation of Shepherd's Purse From the Republic of Korea Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the regulations for the importation of shepherd's purse from the Republic of Korea into the United States.

DATES: We will consider all comments that we receive on or before August 23, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0051-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0051, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0051* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information regarding the regulations for the importation of shepherd's purse from the Republic of Korea into the United States, contact Mr. Andrew Wilds, Trade Director, Plant Health Programs, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1236; (301) 851–2275. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Importation of Shepherd's Purse from the Republic of Korea into the United States.

OMB Number: 0579–0366.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant

Health Inspection Service (APHIS) regulates the importation of fruits and vegetables from certain parts of the world as provided in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–58).

In accordance with these regulations, APHIS allows the importation of shepherd's purse with roots from the Republic of Korea into the United States under certain conditions to prevent the introduction of plant pests into the United States. As a condition of entry, fresh shepherd's purse must be produced in accordance with a systems approach that includes requirements for importation of commercial consignments, pest-free place of production, and inspection for quarantine pests by the national plan protection organization (NPPO) of the Republic of Korea. These conditions involve certain information collection activities, including sampling, issuance of a phytosanitary certificate, recordkeeping, and production site registration.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.54 hours per response.

Respondents: Importers of fruits and vegetables, the NPPO of the Republic of Korea.

Estimated annual number of respondents: 54.

Estimated annual number of responses per respondent: 5.62.

Estimated annual number of responses: 304.

Estimated total annual burden on respondents: 163 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 19th day of June 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–15045 Filed 6–21–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Resource Coordinating Committee; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting; Correction.

SUMMARY: The Forest Service published a document in the **Federal Register** of June 6, 2013, concerning a notice of meeting containing an incorrect teleconference line.

FOR FURTHER INFORMATION CONTACT: Maya Solomon, Forest Resource Coordinating Committee Program Coordinator, 202–205–1376 or Ted Beauvais, Designated Federal Officer, 202–205–1190.

Correction

In the **Federal Register** of June 6, 2013, in FR Doc. 2013–13453, on page 34035, in the first column, correct the ''Call-in information'' under the Addresses caption to read:

The meetings will be held via teleconference that interested public participants will be able to access via the following call-in information: 1–888–858–2144 Access Code: 7039194#.

Dated: June 10, 2013.

Paul Ries,

Associate Deputy Chief, State & Private Forestry.

[FR Doc. 2013–14949 Filed 6–21–13; 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 Oceanic and Atmospheric Administration (NOAA).

Title: Northwest Region Federal Fisheries Permits.

OMB Control Number: 0648–0203.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 586.

Average Hours per Response: Limited entry permit LEP) renewal, 20 minutes; LEP transfer, 30 minutes; ownership interest form, 10 minutes; Exempted Fishery Permit (EFP) proposal, 32 hours; pre-season plan, 16 hours; data reports, 2 hours; summary reports, 24 hours.

Burden Hours: 983.

Needs and Uses: This request is for a revision and extension of a currently approved information collection.

The Magnuson-Stevens Act (16 U.S.C. 1801) provides that the Secretary of Commerce is responsible for the conservation and management of marine fisheries resources in Exclusive Economic Zone (3–200 miles) of the United States (U.S.). NOAA Fisheries, Northwest Region manages the Pacific Coast Groundfish Fishery in the Exclusive Economic Zone (EEZ) off Washington, Oregon, and California under the Pacific Coast Groundfish Fishery Management Plan. The regulations implementing the Pacific Groundfish Fishery require that those individuals participating in the limited entry fishery have a valid limited entry permit. Participation in the fishery and access to a limited entry permit has been restricted to control the overall harvest capacity.

NOAA Fisheries seeks comment on the extension of permit information collections required for: (1) Renewal and transfer of Pacific Coast Groundfish limited entry permits; (2) implementation of certain provisions of the sablefish permit stacking program as provided for at 50 CFR 660.231 and 660.25; and (3) issuing and fulfilling the terms and conditions of certain exempted fishing permits (EFPs).

Revisions: (1) Addition of a mandatory question to the renewal form to determine if a permit owner registered to a permit is considered a small business as defined by the Small Business Act. This information assists regional staff in preparing initial and final regulatory flexibility analyses required as part of various rulemakings. (2) Certification statement on the ownership interest, transfer and renewal forms will include a clause that the individual making the certification

(signing the form) is authorized to do so, and make them consistent with other certification statements on other forms.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, semi-annually, monthly and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: O*IRA_Submission@omb.eop.gov.*

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 *OIRA_Submission@omb.eop.gov.*

Dated: June 19, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–14978 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–22–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 Oceanic and Atmospheric Administration (NOAA).

Title: Survey of Coastal Managers to Assess Needs for Ecological Forecasts.

OMB Control Number: None.

Form Number(s): NA.

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

Number of Respondents: 100.

Average Hours per Response: 20 minutes.

Burden Hours: 33.

Needs and Uses: This request is for a new survey of coastal managers to determine their needs and potential uses for ecological forecasts or scenarios. Coastal managers would be staff from state agencies who deal with issues such as coastal water quality and habitat management. The survey will be conducted under a cooperative agreement between the NOAA National Centers for Coastal Ocean Science (NCCOS) and HDR, Inc., an environmental consulting firm. NOAA has a long history of conducting operational modeling and forecasting, mostly in the National Weather Service for weather and climate and the National Ocean Service for tides and currents. Expanding this capacity to include forecasting of ecological trends and conditions can be critical to many coastal management applications. This survey will help to assess coastal managers' needs for ecological forecasts and scenarios, and how such forecasts may be used in management contexts.

Affected Public: State, local or tribal governments, not-for-profit institutions.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

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 *OIRA_Submission@omb.eop.gov.*

Dated: June 19, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–14994 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–JS–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Collection of State Level Data on Nutrition Assistance

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before August 23, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Amy O'Hara, U.S. Census Bureau, 4600 Silver Hill Road, Room 6H007, Washington, DC 20233 (or via the Internet at *Amy.B.OHara@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau's Demonstration of Administrative Records Improving Surveys (DARIS) research project began in 2006 during the redesign of the Survey of Income and Program Participation (SIPP). The purpose of DARIS was to analyze direct and indirect uses of administrative data to enhance survey data. DARIS builds upon ten years of administrative data research that has demonstrated its value to State and Federal Agencies. Projects including the Medicaid Undercount Project, Earned Income Participation Rate Project, and research by the Chapin Hall Center at the University of Chicago have compared survey and program data. The Census Bureau benefits from these projects and the DARIS program by improving survey frames, developing model-based edits and allocations, and evaluating data quality over time. Collaborating agencies have benefited through access to reports and tabulations to better administer their programs.

Both the Census Bureau and the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA) would like to build on the successes of the DARIS project by encouraging State and District of Columbia Agencies to share Nutrition Assistance data with the Census Bureau. Data sharing and analysis of linked files are solely for statistical purposes, not for enforcement purposes. The Nutrition Assistance data are and will remain confidential, whether in their original form or when comingled or linked.

The Census Bureau will link the Nutrition Assistance data with other records at the Census Bureau, including but not limited to data from the SIPP, Current Population Survey, and the American Community Survey. The

linked data will be used to conduct research designed to help the Census Bureau improve its methods of collecting program participation data, as well as its record linking methods. This linkage will be accomplished using a unique linkage identifier called a Protected Identification Key (PIK). After the linkage is achieved, Personally Identifiable Information will be removed from the linked files. Processing to assign a PIK to each person record involves matching based on name, address, sex, date of birth, and Social Security Number (SSN) data. While States may share SSN for Nutrition Assistance recipients to improve the quality of the matching process, most Census Bureau surveys do not collect SSN thereby precluding an exact match. The validation of data processing and PIK process has been used by other internal and external Census Bureau research projects. Only Census Bureau staff conducting the record linkage will have access to files with the Personally Identifiable Information, and access to those files assigned a PIK will be limited to those with a need to know.

The Census Bureau will return tabulated Nutrition Assistance data to the FNS and the participating State Agencies. This information will help FNS and the State Agencies develop better measures of poverty, analyze the demographic characteristics of participants, review enrollment rates for those eligible for assistance, and analyze the effects of state programs on a variety of outcomes. The Census Bureau will benefit by using the Nutrition Assistance data to improve its Title 13, U.S. Code (U.S.C), authorized censuses and surveys. The Census Bureau will evaluate the quality of the linked data to: Improve Census Bureau household survey coverage; provide a basis for improving Census Bureau demographic survey program participation questions; gain a greater understanding of data quality collected in Census Bureau household surveys on food assistance program participation, household composition and income; and evaluate and improve data linking software and techniques in USDA food assistance program participation research.

II. Method of Collection

The Census Bureau will contact the State Agencies to discuss the research proposal and use of state agency administrative records. The State Agencies will set up agreements with the Census Bureau to provide Nutrition Assistance data. The State Agency will transfer State nutrition administrative records to the Census Bureau via secure File Transfer Protocol or appropriately encrypted CD–ROM or DVD–ROM. When the Census Bureau receives data from the source files, the data are processed to validate identifying information and unique person and address-matching identifiers appended. The administrative records data are then compared to current demographic survey data to evaluate coverage of the survey frame, assess data quality, and produce research papers. The Nutrition Assistance data will also be integrated into the Center for Administrative Records, Research and Applications (CARRA) administrative records infrastructure.

III. Data

OMB Control Number: None.

Form Number: Information will be collected in the form of a data transfer to the Census Bureau. No form will be used.

Type of Review: Regular submission.

Affected Public: State governments.

Estimated Number of Respondents: 51.

Estimated Time per Response: 75 hours.

Estimated Total Annual Burden Hours: 3,825 hours.

Estimated Total Annual Cost: $80,325.

Respondents Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 6 and 8(b).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: June 19, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–14987 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

U.S. Bureau of the Census

Proposed Information Collection; Comment Request; Generic Clearance for Internet Nonprobability Panel Pretesting

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before August 23, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments(s) and instructions should be directed to Jennifer Hunter Childs, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233–9150, (202) 603–4827 (or via the Internet at *jennifer.hunter.childs*@census.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request a new OMB generic clearance to conduct a variety of medium-scale iterative Internet research pretesting activities. A block of hours will be dedicated to these activities for each of the next three years. OMB will be informed in writing of the purpose and scope of each of these activities, as well as the time frame and number of burden hours used. The number of hours used will not exceed the number set aside for this purpose.

The Census Bureau is committed to conducting research in a cost efficient manner. Currently, there are several stages of testing that occur in any research project the U.S. Census Bureau conducts. As a first stage of research, the Census Bureau pretests questions on surveys or censuses and evaluates the usability and ease of use of Web sites

using a small number of subjects during focus groups, usability and cognitive testing. These projects are in-person and labor intensive, but typically only target samples of 20 to 30 respondents. Often the second stage is a larger scale field test with a split panel design of a survey or a release of a Census Bureau data dissemination product with a feedback mechanism. These stages often involve a lot of preparatory work and often are limited in the number of panels tested due to the cost considerations. They are often targeted at very large sample sizes with over 10,000 respondents per panel.

Cost efficiencies can occur by testing some research questions in a medium-scale test, using a smaller number of participants than what we typically use in a field test, yet a larger and more diverse set of participants than who we recruit for cognitive and usability tests. Using Internet nonprobability panel pretesting, we can answer some research questions more thoroughly than in the small-scale testing, but less expensively than in the large-scale test. This generic clearance seeks to establish a medium-scale (defined as having sample sizes from 100–2000 per study), cost-efficient method of testing questions and contact strategies over the internet through a nonprobability sample.

For example, email has been identified as a possible cost-effective notification strategy for online data collection. Email has not been used extensively as a notification mode for past censuses nor other government surveys. Prior to implementing an email strategy, the Census Bureau needs to determine the best email invitation in order to maximize click-through rates. The numerous email variations would be cost prohibitive in a large-scale test. Medium-scale testing of email variations is more efficient. This generic clearance will be used to answer some fundamental questions about how to optimize email (and possibly text message) contacts.

This research program will be used by the Census Bureau and survey sponsors to test alternative contact methods, including emails and text messages (via an opt-in strategy), improve online questionnaires and procedures, reduce respondent burden, and ultimately increase the quality of data collected in the Census Bureau censuses and surveys. The clearance will be used to conduct pretesting of decennial and demographic census and survey questionnaires as well as communications and/or marketing strategies and data dissemination tools for the Census Bureau prior to fielding them. The primary method of identifying measurement problems with the questionnaire or survey procedure is split panel tests. This will encompass both methodological and subject matter research questions that can be tested on a medium-scale nonprobability panel.

This research program will also be used by the Census Bureau for remote usability testing of electronic interfaces and to perform other qualitative analysis such as respondent debriefings. Advantages of using the remote, medium-scale testing is that participants can test products at their convenience using their own equipment, as opposed to using Census Bureau supplied computers. A diverse participant pool, whether that was geographically, demographically, or economically, is another advantage. Remote usability testing would use paradata, accuracy and satisfaction scores, and written qualitative comments to determine optimal interface designs and to obtain feedback from respondents.

For the initial phase of this study, the public will be offered an opportunity to participate in this research remotely, by signing up for an online research panel. If a person opts-in, the Census Bureau will occasionally email (or text, if applicable) the person an invitation to complete a survey for one of our research projects. Invited respondents will be told the topic of the survey, and how long it will take to complete it.

If the initial phase is successful, it will be followed by extended research, which will employ cold-contact emails to validate findings from the initial phase and expand the research.

II. Method of Collection

The Internet will be the primary method of data collection. Mail or phone prenotice and/or telephone follow-up may be used in some cases.

III. Data

OMB Number: None.
Form Number: Various.
Type of Review: Regular submission.
Affected Public: Individuals or Households.
Estimated Number of Respondents: 50,000.
Estimated Time per Response: 10 minutes.
Estimated Total Burden Hours: 8,333.
Estimated Total Annual Cost: There is no cost to respondent, except for their time to complete the questionnaire.
Respondent's Obligation: Voluntary.

Authority: 13 U.S.C. 131, 141, 161, 181, 182, 193, and 301.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including house and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: June 19, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–14982 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–63–2013]

Foreign-Trade Zone 65—Panama City, Florida; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Panama City Port Authority, grantee of FTZ 65, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 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 June 18, 2013.

FTZ 65 was approved by the FTZ Board on January 16, 1981 (Board Order 171, 46 FR 8072, 1/26/81), and expanded on March 3, 1987 (Board Order 343, 52 FR 7634, 3/12/87), and on September 25, 2009 (Board Order 1646, 74 FR 53216, 10/16/09). The current zone includes the following sites: *Site 1* (125 acres)—Port Panama City Industrial

Park located on the St. Andrew Bay and the Intra-coastal Waterway in Panama City; *Site 2* (174 acres)—Hugh Nelson Industrial Park located off Highway 390 in Lynn Haven; *Site 3* (505 acres total)—Bay Industrial Park (254 acres) located northeast of the intersection of Highway 231 and Highway 167 in Bay County and Bay Intermodal Park (251 acres) located at Highway 231 and Commerce Boulevard in Panama City; *Site 4* (83 acres total)—within the 130-acre Tommy R. McDonald Industrial Park located at Industrial Drive and Commerce Avenue in Chipley (78 acres) and at 1076 Brickyard Road in Chipley (5 acres, expires 7/31/2014); and, *Site 5* (214 acres)—Washington County Industrial Park located north of Highway 90 at intersection of Highway 273 and North Boulevard in Chipley.

The grantee's proposed service area under the ASF would be Bay and Washington Counties, Florida, 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 adjacent to the Panama City Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone as follows: (1) Modify Site 3 by reinstating 5 acres at the Bay Industrial Park which will now consist of 259 acres (new overall site total—510 acres); (2) modify Site 4 by removing the 5 acres located at 1076 Brickyard Road in Chipley (new overall site total—78 acres); and, (3) Sites 1, 2 (as modified), 3, 4 (as modified) and 5 will be designated as ''magnet'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones or usage-driven sites are being requested at this time. The application would have no impact on FTZ 65's previously authorized subzone.

In accordance with the FTZ Board's regulations, Camille Evans 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 August 23, 2013. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 9, 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 Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: June 18, 2013.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2013–15012 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–62–2013]

Foreign-Trade Zone (FTZ) 196—Fort Worth, Texas; Notification of Proposed Production Activity; Flextronics International USA, Inc. (Mobile Phone Assembly and Kitting); Fort Worth, Texas

Flextronics International USA, Inc. (Flextronics) submitted a notification of proposed production activity to the FTZ Board for its facility in Fort Worth, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 14, 2013.

The Flextronics facility is located within Site 2 of FTZ 196. The facility is used for the assembly, kitting, programming, testing, packaging, warehousing and distribution of mobile phones. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Flextronics from customs duty payments on the foreign status components used in export production. On its domestic sales, Flextronics would be able to choose the duty rates during customs entry procedures that apply to cell phones or mobile handsets (duty-free) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: labels, battery adhesives, decals, Kevlar protective liners, mesh gaskets, holsters with swivels, leather carrying cases, leather pouches/cases, plastic carrying cases, wrist straps, screws, power supplies, nickel/cadmium batteries, lithium/ion batteries, other batteries, antenna assemblies, audio flex assemblies, bridge flex assemblies, interplex assembly chassis, back assembly covers, sidekey assemblies, phone camera assemblies, phone camera lens assemblies, phone camera lens housing assemblies, phone transceiver assemblies, printed circuit board assemblies, rear phone housing assemblies, phone side key brackets, volume buttons, grommets, phone rigidizer housings, plastic phone housings, microphones, power key buttons, protective liners, speaker earpieces, external speaker sets, headsets with microphones, hands-free speaker sets, mobile phones, housing assemblies, connectors, boards, flash flex assemblies and cables (duty rate ranges from duty-free to 8.6%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 5, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the 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: June 18, 2013.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2013–15013 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Gerardo Domingo Rodriguez-Rivera, Inmate Number #96977–279, FCI Beaumont Low, Federal Corrections Institution, P.O. Box 26020, Beaumont, TX 77720.

On January 13, 2012, in the U.S. District Court, Southern District of Texas, Gerardo Domingo Rodriguez-Rivera (''Rodriguez-Rivera'') was convicted of violating Section 38 of the

Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Rodriguez-Rivera was convicted of knowingly and willfully exporting and causing to be exported and attempting to export and attempting to cause to be exported from the United States to Mexico 70 AK–47 magazines, which are designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Rodriguez-Rivera was sentenced to 46 months of imprisonment and three years of supervised release, and fined a $100 assessment. Rodriguez-Rivera is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Rodriguez-Rivera's conviction for violating the AECA, and have provided notice and an opportunity for Rodriguez-Rivera to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Rodriguez-Rivera. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Rodriguez-Rivera's export privileges under the Regulations for a period of 10 years from the date of Rodriguez-Rivera's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Rodriguez-Rivera had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until January 13, 2022, Gerardo Domingo Rodriguez-Rivera, with a last known address at: Inmate Number #96977–279, FCI Beaumont Low, Federal Corrections Institution, P.O. Box 26020, Beamont, TX 77720, and when acting for or on behalf of Rodriguez-Rivera, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Rodriguez-Rivera by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until January 13, 2022.

VI. In accordance with Part 756 of the Regulations, Rodriguez-Rivera may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Rodriguez-Rivera. This Order shall be published in the **Federal Register**.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 FR 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–15019 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Manuel Mario Pavon, Inmate Number #96976–279, FCI Big Spring, Federal Corrections Institution, 1900 Simler Avenue, Big Spring, TX 79720.

On January 13, 2012, in the U.S. District Court, Southern District of Texas, Manuel Mario Pavon (''Pavon'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Pavon was convicted of knowingly and willfully exporting and causing to be exported and attempting to export and attempting to cause to be exported from the United States to Mexico seventy (70) AK47 magazines which were designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Pavon was sentenced to 46 months of imprisonment and three years of supervised release, and fined a $100 assessment. Pavon is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Pavon's conviction for violating the AECA, and have provided notice and an opportunity for Pavon to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Pavon. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Pavon's export privileges under the Regulations for a period of 10 years from the date of Pavon's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Pavon had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until January 13, 2022, Manuel Mario Pavon, with a last known address at: Inmate Number #96976–279, FCI Big Spring, Federal Corrections Institution, 1900 Simler Avenue, Big Spring, TX 79720, and when acting for or on behalf of Pavon, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Pavon by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 FR 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

V. This Order is effective immediately and shall remain in effect until January 13, 2022.

VI. In accordance with Part 756 of the Regulations, Pavon may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Pavon. This Order shall be published in the **Federal Register**.

Issued this 17th day of June, 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–15017 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Juan Ricardo Puente-Paez, Inmate Number #05086–379, FCI McDowell, Federal Corrections Institution, Federal Satellite Low, P.O. Box 1009, Welch, WV 24801

Order Denying Export Privileges

On May 29, 2012, in the U.S. District Court, Southern District of Texas, Juan Ricardo Puente-Paez (''Puente-Paez'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Puente-Paez was convicted of knowingly and willfully exporting, attempting to export and causing to be exported from the United States to Mexico four military spec Interceptor body armor vests, which were designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Puente-Paez was sentenced to 95 months of imprisonment and three years of supervised release, and fined a $100 assessment. Puente-Paez is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Puente-Paez's conviction for violating the AECA, and have provided notice and an opportunity for Puente-Paez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Puente-Paez. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Puente-Paez's export privileges under the Regulations for a period of 10 years from the date of Puente-Paez's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Puente-Paez had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until May 29, 2022, Juan Ricardo Puente-Paez, with a last known address at: Inmate Number #05086–379, FCI McDowell, Federal Corrections Institution, Federal Satellite Low, P.O. Box 1009, Welch, WV 24801, and when acting for or on behalf of Puente-Paez, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person,

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

firm, corporation, or business organization related to Puente-Paez by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until May 29, 2022.

VI. In accordance with Part 756 of the Regulations, Puente-Paez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Puente-Paez. This Order shall be published in the **Federal Register.**

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–14986 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Juan Narcizo Oyervides-Campos, Inmate Number #86526–279, Correctional Institution Reeves I & II, Correctional Institution, 98 West County Road #204, Pecos, TX 79772; Order Denying Export Privileges

On November 21, 2011, in the U.S. District Court, Southern District of Texas, Juan Narcizo Oyervides-Campos (''Oyervides-Campos'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Oyervides-Campos was convicted of knowingly and willfully exporting and causing to be exported and attempting to export and attempting to cause to be exported from the United States to Mexico thirteen semiautomatic rifles, which were designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Oyervides-Campos was sentenced to 37 months of imprisonment and three years of supervised release, and fined a $100 assessment. Oyervides-Campos is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Oyervides-Campos's conviction for violating the AECA, and have provided notice and an opportunity for Oyervides-Campos to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Oyervides-Campos. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Oyervides-Campos's export privileges under the Regulations for a period of 10 years from the date of Oyervides-Campos's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Oyervides-Campos had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until November 21, 2021, Juan Narcizo Oyervides-Campos, with a last known address at: Inmate Number #86526–279, Correctional Institution Reeves I & II, Correctional Institution, 98 West County Road #204, Pecos, TX 79772, and when acting for or on behalf of Oyervides-Campos, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 FR 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Oyervides-Campos by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until November 21, 2021.

VI. In accordance with Part 756 of the Regulations, Oyervides-Campos may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Oyervides-Campos. This Order shall be published in the **Federal Register**.

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–15009 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Mario Salinas-Lucio, Inmate Number #61687–279, FCI La Tuna, Federal Corrections Institution, Federal Satellite Low, P.O. Box 6000, Anthony, TX 88021.

Order Denying Export Privileges

On January 9, 2012, in the U.S. District Court, Southern District of Texas, Mario Salinas-Lucio (''Salinas-Lucio'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Salinas-Lucio was convicted of knowingly and willfully attempting to export and causing to be exported from the United States to Mexico 1,947 rounds of .223 caliber ammunition, which was designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Salinas-Lucio was sentenced to 75 months of imprisonment and three years of supervised release, and fined a $100 assessment. Salinas-Lucio is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Salinas-Lucio's conviction for violating the AECA, and have provided notice and an opportunity for Salinas-Lucio to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Salinas-Lucio. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Salinas-Lucio's export privileges under the Regulations for a period of 10 years from the date of Salinas-Lucio's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Salinas-Lucio had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until January 9, 2022, Mario Salinas-Lucio, with a last known address at: Inmate Number #61687–279, FCI La Tuna, Federal Corrections Institution, Federal Satellite Low, P.O. Box 6000, Anthony, TX 88021, and when acting for or on behalf of Salinas-Lucio, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Salinas-Lucio by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until January 9, 2022.

VI. In accordance with Part 756 of the Regulations, Salinas-Lucio may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Salinas-Lucio. This Order shall be published in the **Federal Register**.

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–14989 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Jose Guadalupe Reyes-Martinez, Inmate Number #85993–279, CI Adams County, Correctional Institution, P.O. Box 1600, Washington, MS 39190; Order Denying Export Privileges

On November 21, 2011, in the U.S. District Court, Southern District of Texas, Jose Guadalupe Reyes-Martinez (''Reyes-Martinez'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Reyes-Martinez was convicted of knowingly and willfully exporting and causing to be exported and attempting to export and attempting to cause to be exported from the United States to Mexico 1,802 rounds of 7.62x51mm caliber ammunition, which are designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Reyes-Martinez was sentenced to 46 months of imprisonment and three years of supervised release, and fined a $100 assessment. Reyes-Martinez is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Reyes-Martinez's conviction for violating the AECA, and have provided notice and an opportunity for Reyes-Martinez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Reyes-Martinez. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Reyes-Martinez's export privileges under the Regulations for a period of 10 years from the date of Reyes-Martinez's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Reyes-Martinez had an interest at the time of his conviction.

Accordingly, it is hereby ordered

I. Until November 21, 2021, Jose Guadalupe Reyes-Martinez, with a last known address at: Inmate Number #85993–279, CI Adams County, Correctional Institution, P.O. Box 1600, Washington, MS 39190, and when acting for or on behalf of Reyes-Martinez, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 FR 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Reyes-Martinez by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until November 21, 2021.

VI. In accordance with Part 756 of the Regulations, Reyes-Martinez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Reyes-Martinez. This Order shall be published in the **Federal Register**.

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–14988 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Mario Julian Martinez-Bernache, Inmate Number #95749–279, CI Big Spring, Corrections Institution, 2001 Rickabaugh Drive, Big Spring, TX 79720; *Order Denying Export Privileges*

On March 15, 2012, in the U.S. District Court, Southern District of Texas, Mario Julian Martinez-Bernache (''Martinez-Bernache'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Martinez-Bernache was convicted of knowingly and willfully attempting to export and causing to be exported from the United States to Mexico 4000 rounds of .223 caliber ammunition and 1000 rounds of 7.62 millimeter caliber ammunition, which were designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Martinez-Bernache was sentenced to 46 months of imprisonment and three years of supervised release, and fined a $100 assessment. Martinez-Bernache is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Martinez-Bernache's conviction for violating the AECA, and have provided notice and an opportunity for Martinez-Bernache to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Martinez-Bernache. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Martinez-Bernache's export privileges under the Regulations for a period of 10 years from the date of Martinez-Bernache's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Martinez-Bernache had an interest at the time of his conviction.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

Accordingly, it is hereby *ordered*

I. Until March 15, 2022, Mario Julian Martinez-Bernache, with a last known address at: Inmate Number #95749–279, CI Big Spring, Corrections Institution, 2001 Rickabaugh Drive, Big Spring, TX 79720, and when acting for or on behalf of Martinez-Bernache, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Martinez-Bernache by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until March 15, 2022.

VI. In accordance with Part 756 of the Regulations, Martinez-Bernache may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Martinez-Bernache. This Order shall be published in the **Federal Register**.

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–14984 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Jose Arturo Ramon-Herrada, Inmate Number #90903–279, CI Willacy County, Correctional Institution, 1800 Industrial Drive, Raymonville, TX 78580

Order Denying Export Privileges

On February 24, 2012, in the U.S. District Court, Southern District of Texas, Jose Arturo Ramon-Herrada (''Ramon-Herrada'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Ramon-Herrada was convicted of knowingly and willfully conspiring and agreeing with another person or persons to export and causing to be exported from the United States to Mexico 17,500 cartridges of ammunition designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Ramon-Herrada was sentenced to 37 months of imprisonment and two years of supervised release, and fined a $100 assessment. Ramon-Herrada is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Ramon-Herrada's conviction for violating the AECA, and have provided notice and an opportunity for Ramon-Herrada to make

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 FR 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Ramon-Herrada. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Ramon-Herrada's export privileges under the Regulations for a period of 10 years from the date of Ramon-Herrada's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Ramon-Herrada had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until February 24, 2022, Jose Arturo Ramon-Herrada, with a last known address at: Inmate Number #90903–279, CI Willacy County, Correctional Institution, 1800 Industrial Drive, Raymonville, TX 78580, and when acting for or on behalf of Ramon-Herrada, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Ramon-Herrada by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until February 24, 2022.

VI. In accordance with Part 756 of the Regulations, Ramon-Herrada may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Ramon-Herrada. This Order shall be published in the **Federal Register**.

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–15004 Filed 6–21–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–841]

Polyvinyl Alcohol from Taiwan: Final Results of Antidumping Duty Administrative Review; 2010–2012

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

SUMMARY: On April 8, 2013, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on polyvinyl alcohol (PVA) from Taiwan. For these final results, we continue to find that Chang Chun Petrochemical Co., Ltd. (CCPC) has not sold subject merchandise at less than normal value.

DATES: *Effective Date:* June 24, 2013.

FOR FURTHER INFORMATION CONTACT: Sandra Dreisonstok or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0768 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 2013, the Department published the preliminary results of the administrative review of the antidumping duty order on PVA from Taiwan.[1] The period of review is September 13, 2010, through February 29, 2012.

We invited interested parties to comment on the *Preliminary Results.* We received a case brief from CCPC on May 8, 2013, in which it alleged one clerical error in the calculation. The petitioner, Sekisui Specialty Chemicals, LLC, did not file a case or rebuttal brief.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the antidumping duty order is PVA. This

[1] *See Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review,* 78 FR 20890 (April 8, 2013) (*Preliminary Results*) and the accompanying Preliminary Decision Memorandum.

product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid. PVA in fiber form and PVB-grade low-ash PVA are not included in the scope of this order. PVB-grade low-ash PVA is defined to be PVA that meets the following specifications: Hydrolysis, Mole % of 98.40 ± 0.40, 4% Solution Viscosity 30.00 ± 2.50 centipois, and ash—ISE, wt% less than 0.60, 4% solution color 20 mm cell, 10.0 maximum APHA units, haze index, 20 mm cell, 5.0, maximum. The merchandise subject to the order is currently classifiable under subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have corrected the programming error in the weighted-average dumping margin calculation in the *Preliminary Results.* This change, however, did not affect the final weighted-average dumping margin for CCPC. A detailed discussion of the corrections made is included in the final analysis memorandum,[2] which is hereby adopted by this notice 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 is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building.

Final Results of Review

As a result of this review, we determine that a weighted-average dumping margin of 0.00 percent exists for CCPC for the period September 13, 2010, through February 29, 2012.

Assessment Rates

In accordance with the *Final Modification for Reviews,*[3] we will instruct U.S. Customs and Border Protection (CBP) to liquidate CCPC's entries covered in this review without regard to antidumping duties.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the period of review produced by CCPC for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the country-specific all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of PVA from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for CCPC will be 0.00 percent, the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the manufacturer of the merchandise for the most recently completed segment of this proceeding; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.08 percent, the all-others rate established in the *Antidumping Duty Order: Polyvinyl Alcohol From Taiwan,* 76 FR 13982 (March 15, 2011). These cash deposit requirements shall remain in effect until further notice.

Notifications

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

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 17, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. 2013–14915 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See* Memorandum to the file from Sandra Dreisonstok through Minoo Hatten entitled, ''Administrative Review of the Antidumping Duty Order on Polyvinyl Alcohol from Taiwan: Final Analysis Memorandum for Chang Chun Petrochemical Co., Ltd.; 2010–2012'' dated concurrently with this notice.

[3] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification*).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC726

Draft NOAA Procedures for Government to Government Consultation With Federally Recognized Indian Tribes

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: NOAA announces the availability of and request for comments on the Draft NOAA Procedures for Government-to-Government Consultation With Federally Recognized Indian Tribes. This Draft Handbook is intended to assist NOAA staff in conducting effective government-to-government consultations and fulfilling NOAA's obligations under Executive Order 13175 and Department Administrative Order (DAO) 218–8 on Consultation and Coordination with Indian Tribal Governments, and the Department of Commerce Tribal Consultation Policy adopted on May 21, 2013 and published in the **Federal Register** on June 4, 2013.

DATES: Written comments must be received on or before 11:59 p.m., EST, on August 23, 2013.

ADDRESSES: Electronic copies of the Draft Handbook may also be obtained on the internet at: *http://www.legislative.noaa.gov/.*

Written comments may be sent by any of the following methods:

- Email to the following address: *noaa.tribalhandbook@noaa.gov;*
- Mail or hand deliver to Heather Sagar, Department of Commerce (DOC), National Oceanic and Atmospheric Administration, 14th and Constitution Avenue NW., Room 51027, Washington, DC 20230. Mark the outside of the envelope ''Draft NOAA Tribal Handbook''; or
- Fax at (202) 482–1844.

FOR FURTHER INFORMATION CONTACT: For additional information on the Draft Handbook, contact Heather Sagar by phone at (202) 482–1568 or by fax at (202) 482–1844.

SUPPLEMENTARY INFORMATION: On March 30, 1995, Secretary of Commerce Ron Brown signed DOC's first American Indian and Alaska Native Policy. That policy recognized the unique legal and political status of federally recognized American Indian and Alaska Native tribal governments, and the Federal Government's trust responsibility to American Indian tribes. The policy acknowledged the right of American Indian Tribes and Alaska Natives to self-government which flows from their inherent sovereignty and relationship with the Federal government. The goal of the policy was to ensure that tribal rights and concerns were addressed through consultation tribal governments prior to implementing any action when developing legislation, regulations, or policies that would affect tribal governments, their economic and social development activities, and their lands and resources.

On April 26, 2012, Secretary of Commerce John Bryson issued DAO 218–8 to implement the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (November 6, 2000), and the Presidential Memorandum on Tribal Consultation (2009). On May 21, 2013, Acting Secretary Rebecca Blank issued a new Tribal Policy that builds upon and expands the 1995 DOC Policy. The 2013 policy establishes the manner in which the Department works with tribes on a government-to-government basis when formulating or implementing policies that have tribal implications. This DOC policy outlines consultation procedures for all Department operating units when developing policies that have tribal implications.

This Draft Handbook is intended to assist NOAA, including its regional and field staff, in conducting effective government-to-government consultations and fulfilling NOAA's obligations under Executive Order 13175 and DAO 218–8 on Consultation and Coordination with Indian Tribal Governments, and the Department of Commerce Tribal Consultation Policy.

Authority: Executive Order 13175 of November 6, 2000 ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) and Presidential Memorandum of November 5, 2009 ''Tribal Consultation'' (74 FR 57881, November 9, 2009).

Dated: June 14, 2013.

Eric C. Schwaab,

Acting Assistant Secretary for Conservation and Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–15011 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC718

New England Fishery Management Council (NEFMC); Public Meeting

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

ACTION: Notice of cancellation of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) has cancelled the public meeting of its *Ad hoc Sturgeon* Committee that was scheduled for Wednesday, June 26, 2013 beginning at 9:30 a.m. in Holiday Inn, Peabody, MA.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The initial notice was published on June 10, 2013 (78 FR 34654) and the meeting will be rescheduled at a later date and announced in the **Federal Register**.

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

Dated: June 18, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–14934 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC554

Marine Mammals; File No. 17952

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Daniel P. Costa, Ph.D., Department of Biology and Institute of Marine Sciences, University of California, Santa Cruz, CA 95064 to conduct scientific research on California sea lions (*Zalophus californianus*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376;

Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On March 13, 2013, notice was published in the **Federal Register** (78 FR 15933) that a request for a permit to conduct research on the species identified above had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit authorizes Dr. Costa to continue long-term research on California sea lions in California studying their foraging, diving, energetics, food habits, and at sea distribution. Dr. Costa is authorized to capture, sample, tag and release California sea lion pups, juveniles, and adults. The permit authorizes Dr. Costa to recapture tagged California sea lions throughout their U.S. range. Harassment of California sea lions, harbor seals (*Phoca vitulina*), and northern elephant seals (*Mirounga angustirostris*) annually

incidental to research activities is authorized. Unintentional research-related mortality of up to 20 California sea lions over the course of the permit is authorized. Import and export of pinniped samples is authorized. The permit expires June 7, 2018.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: June 19, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–14972 Filed 6–21–13; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission

TIME AND DATE: 10:00 a.m., Friday, July 26, 2013.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Examinations, and Enforcement Matters. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Stowe,

Executive Assistant.

[FR Doc. 2013–15197 Filed 6–20–13; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Friday, July 19, 2013.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Examinations, and Enforcement Matters. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Stowe,

Executive Assistant.

[FR Doc. 2013–15196 Filed 6–20–13; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Friday, July 12, 2013.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Examinations, and Enforcement Matters. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Stowe,

Executive Assistant.

[FR Doc. 2013–15195 Filed 6–20–13; 4:15 pm]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Commission Agenda and Priorities; Notice of Hearing

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission) will conduct a public hearing to receive views from all interested parties about its agenda and priorities for fiscal year 2014, which begins on October 1, 2013, and for fiscal year 2015, which begins on October 1, 2014. Participation by members of the public is invited. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal years 2014 and 2015 will become part of the public record.

DATES: The hearing will begin at 10 a.m. on July 10, 2013. Requests to make oral presentations and the written text of any oral presentations must be received by the Office of the Secretary not later than 5 p.m. Eastern Standard Time (EST) on July 1, 2013.

ADDRESSES: The hearing will be in the Hearing Room, 4th Floor of the Bethesda Towers Building, 4330 East-West Highway, Bethesda, MD 20814. Requests to make oral presentations and texts of oral presentations should be captioned ''Agenda and Priorities FY 2014 and/or 2015'' and sent by electronic mail (email) to: *cpsc-os@cpsc.gov,* or mailed or delivered to the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, not later than 5 p.m. EST on July 1, 2013.

FOR FURTHER INFORMATION CONTACT: For information about the hearing, or to request an opportunity to make an oral presentation, please send an email, call, or write Todd A. Stevenson, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov;* telephone: (301) 504–7923; facsimile: (301) 504–0127. An electronic copy of the CPSC's budget request for fiscal year 2014 can be found at: *www.cpsc.gov/performance-and-budget.*

SUPPLEMENTARY INFORMATION: Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws it administers and, to the extent feasible, to select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission conduct a public hearing and provide an opportunity for the submission of comments.

The Commission is in the process of preparing its fiscal year 2014 Operating Plan and fiscal year 2015 Congressional Budget Request. Fiscal year 2014 begins on October 1, 2013, and fiscal year 2015 begins on October 1, 2014. Through this notice, the Commission invites the public to comment on the following questions:

1. What are the priorities the Commission should consider emphasizing and dedicating resources toward in the fiscal year 2014 Operating Plan and/or the fiscal year 2015 Congressional Budget Request?

2. What activities should the Commission consider deemphasizing in the fiscal year 2014 Operating Plan and/or the fiscal year 2015 Congressional Budget Request?

3. Should the Commission consider making any changes or adjustments to its education, safety standards activities, regulation, and enforcement efforts in fiscal years 2014 and/or 2015, keeping in mind the CPSC's existing policy on establishing priorities for Commission action (16 CFR 1009.8)? The CPSC's budget request for fiscal year 2014 can be found at: *www.cpsc.gov/performance-and-budget.* Comments are welcome on whether particular action items should be higher priority than others, should not be included, or should be added to the fiscal year 2014 and/or fiscal year 2015 agendas.

Persons who desire to make oral presentations at the hearing on July 10, 2013, should send an email, call, or write Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov;* telephone: (301) 504–7923; facsimile (301) 504–0127 not later than 5 p.m. EST on July 1, 2013. Presentations should be limited to approximately 10 minutes.

Persons desiring to make presentations must submit the text of their presentations to the Office of the Secretary not later than 5 p.m. EST on July 1, 2013. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations. The hearing will begin at 10 a.m. on July 10, 2013, and will conclude the same day.

Dated: June 19, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–14977 Filed 6–21–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the National Commission on the Structure of the Air Force

AGENCY: Director of Administration and Management, DoD.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense (DoD) announces that the following Federal advisory committee meeting of the National Commission on the Structure of the Air Force (''the Commission'') will take place.

DATES: *Date of Closed Meeting, including Hearing and Commission Discussion:* Tuesday, June 25, 2013, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: 2521 South Clark Street, Suite 525, Crystal City, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mrs. Marcia Moore, Designated Federal Officer, National Commission on the Structure of the Air Force, 1950 Defense Pentagon, Room 3A874, Washington, DC 20301–1950. Email: *dfoafstrucomm@osd.mil.* Desk (703) 545–9113. Facsimile (703) 692–5625.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: The members of the Commission will hear testimony from individual witnesses and then will discuss the information presented at the hearings.

Agenda

June 25, 2013—Closed Meeting, Including Hearing and Commission Discussion: DoD speakers will provide classified information on the roles, missions and capabilities of the various DoD components and how they contribute to the national defense strategy, the integration of force requirements, and DoD's strategies and capabilities to address conflicts and threats. Confirmed speakers include the Chief of the National Guard Bureau, the Director of Cost Assessment and Program Evaluation, and inter-component representatives from the Total Force Task Force. Specific topics include:

1. Defense planning guidance, guidance for Employment of the Force, Global Force Management Implementation guidance, guidance for development of the forces, and the Joint Strategic Capabilities Plan.

2. Combatant Command requirements from operations plans, contingency plans, and Integrated Priority Lists.

3. Rationales for resource decisions contained in the Joint Strategic Planning System, including the Comprehensive Joint Assessment, Joint Combat Capability Assessment, Capabilities Gap Assessment, Chairman's Program Assessment and Chairman's program recommendations, Chairman of the Joint Chiefs of Staff Risk Assessment, Comprehensive Joint Assessment, and Joint Requirements Oversight Council memoranda.

4. Analytical bases, assumptions, and debates that affected the force structure outcome from the Fiscal Year 2013 budget cycle from Presidential budget, program objective memorandum, and resource management decision memoranda.

5. Completed studies, analysis, assessments and evaluations of strategies, plans, programs and budgets for the active, reserve and guard components.

6. Operational readiness data from Status of Resources Training Systems and Defense Readiness Reporting System.

Meeting Accessibility: In accordance with section 10(d) of the FACA, 5 U.S.C. 552b, and 41 CFR 102–3.155, the DoD has determined that the meeting scheduled for June 25, 2013 will be closed to the public. Specifically, the Director of Administration and Management, with the coordination of the DoD FACA Attorney, has determined in writing that this portion of the meeting will be closed to the public because it will discuss classified information and matters covered by 5 U.S.C. 552b(c)(1).

Written Comments: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, the public or interested organizations may submit written comments to the Commission in response to the stated agenda of the closed meeting or the Commission's mission. The Designated Federal Officer (DFO) will review all submitted written statements. Written comments should be submitted to Mrs. Marcia Moore, DFO, via facsimile or electronic mail, the preferred modes of submission. Each page of the comment must include the author's name, title or affiliation, address, and daytime phone number. All contact information may be found in **FOR FURTHER INFORMATION CONTACT.**

Due to difficulties beyond the control of the Commission or its DFO, this **Federal Register** notice for the June 25, 2013 meeting as required by 41 CFR 102–3.150(a) was not met. Accordingly, the Advisory Committee Management Officer for the DoD, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Background: The National Commission on the Structure of the Air Force was established by the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239). The

Department of Defense sponsor for the Commission is the Director of Administration and Management, Mr. Michael L. Rhodes. The Commission is tasked to submit a report, containing a comprehensive study and recommendations, by February 1, 2014 to the President of the United States and the Congressional defense committees. The report will contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions it may consider appropriate in light of the results of the study. The comprehensive study of the structure of the U.S. Air Force will determine whether, and how, the structure should be modified to best fulfill current and anticipated mission requirements for the U.S. Air Force in a manner consistent with available resources.

The evaluation factors under consideration by the Commission are for a U.S. Air Force structure that—(a) Meets current and anticipated requirements of the combatant commands; (b) achieves an appropriate balance between the regular and reserve components of the Air Force, taking advantage of the unique strengths and capabilities of each; (c) ensures that the regular and reserve components of the Air Force have the capacity needed to support current and anticipated homeland defense and disaster assistance missions in the United States; (d) provides for sufficient numbers of regular members of the Air Force to provide a base of trained personnel from which the personnel of the reserve components of the Air Force could be recruited; (e) maintains a peacetime rotation force to support operational tempo goals of 1:2 for regular members of the Air Forces and 1:5 for members of the reserve components of the Air Force; and (f) maximizes and appropriately balances affordability, efficiency, effectiveness, capability, and readiness.

Dated: June 19, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–15020 Filed 6–21–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0141]

Privacy Act of 1974; System of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice to amend a System of Records.

SUMMARY: The Defense Finance and Accounting Service is amending a system of records notice, T5015b, entitled ''Privacy Act Request Files'' in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This system will ensure DFAS has the ability to record, process, and coordinate individual requests for access to, amendment of, or appeals on denials of requests for access or amendment to personal records.

DATES: This proposed action will be effective on July 25, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before July 24, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Outlaw, (317) 212–4591.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/dfas/index.html.*

The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 17, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

T5015b

System name:

Privacy Act Request Files (February 23, 2009, 74 FR 8064).

CHANGES:

SYSTEM ID:

Delete entry and replace with ''T5020a.''

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Defense Finance and Accounting Service—Indianapolis, 8899 East 56th Street, Indianapolis, IN 26249–0150.

Defense Finance and Accounting Service—Cleveland, 1240 East 9th Street, Cleveland, OH 44199–2055.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications, DFAS–ZCF/IN, 8899 E. 56th Street, Indianapolis, IN 46249–0150.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications, DFAS–ZCF/IN, 8899 E. 56th Street, Indianapolis, IN 46249–0150.

Requests should contain individual's full name, SSN for verification, current address for reply, and provide a reasonable description of what they are seeking.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this record system should address written inquiries to Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications,

DFAS–ZCF/IN, 8899 E. 56th Street, Indianapolis, IN 46249–0150.

Request should contain individual's full name, SSN for verification, current address for reply, and telephone number.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The Defense Finance and Accounting Service (DFAS) rules for accessing records, for contesting contents and appealing initial agency determinations are published in Defense Finance and Accounting Service Regulation 5400.11–R, 32 CFR 324; or may be obtained from the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications, DFAS–ZCF/IN, 8899 E. 56th Street, Indianapolis, IN 46249–0150.''

* * * * *

[FR Doc. 2013–15029 Filed 6–21–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2013–0023]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on July 25, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before July 24, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/navy/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 3, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 19, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05354–1

SYSTEM NAME:

Equal Opportunity Management Information System (May 9, 2003, 68 FR 24959).

Changes:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Military Equal Opportunity Network (MEONet).''

SYSTEM LOCATION:

Delete entry and replace with ''Human Resources Technologies (HRTec), 5400 Shawnee Road, Suite 201, Alexandria, VA 22312–2300.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Military personnel who are involved in formal or informal complaints or investigations involving aspects of equal opportunity or hazing and/or who have initiated or were the subject of correspondence concerning aspects of equal opportunity or hazing.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Correspondence and records concerning incident data endorsements and recommendations, formal and informal complaints and investigations concerning aspects of equal opportunity or hazing. Complainant's name, race, ethnicity, gender, rank/rate, age, Unit Identification Code (UIC), phone number, type of complaint filed, and case number are documented.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations; SECNAVINST 5300.26D, Department of the Navy (DON) Policy on Sexual Harassment; SECNAVINST 5350.16A, Equal Opportunity (EO) Within the Department of the Navy (DON); and OPNAVINST 5354.1F, Navy Equal Opportunity Policy.''

PURPOSE(S):

Delete entry and replace with ''To provide a centralized database for hazing and equal opportunity formal and informal complaints, and to assist in equal opportunity measures, such as complaints, investigations, and correspondence.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper and/or electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''The type of Equal Opportunity or hazing complaint filed, by case number or complainant last name.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records maintained for three years after retirement and then destroyed.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Chief of Naval Personnel OPNAV N134, 701 South Courthouse Road, Arlington, VA 22204–2472.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the local activity where assigned. Official mailing addresses are available in the Standard Navy Distribution List (SNDL) published as an appendix to the Navy's compilation of system of records notices.

The letter should contain full name and signature of the requester. The

system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.

The individual may visit their local activity Equal Opportunity Advisor or Command Managed Equal Opportunity Program Manager to review files entered at the command level. Records can only be accessed by the command that entered a specific case or that command's chain of command. Records are only searchable by the name of the complainant. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system of records should address a written request to the local activity where assigned. Official mailing addresses are available in the Standard Navy Distribution List (SNDL) published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain full name and signature of the requester. The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.

The individual may visit their local activity Equal Opportunity Advisor or Command Managed Equal Opportunity Program Manager to review files entered at the command level. Records can only be accessed by the command that entered a specific case or that command's chain of command. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.''

* * * * *

[FR Doc. 2013–14999 Filed 6–21–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2013–0024]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on July 25, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before July 24, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/navy/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 4, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 19, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01301–2

SYSTEM NAME:

On-Line Distribution Information System (ODIS) (July 26, 2010, 75 FR 43500).

Changes:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Personnel records in automated form concerning qualifications, assignment, placement, career development, education, training, recall, release from active duty, advancement, performance, retention, reenlistment, separation, morale, personal affairs, benefits, entitlements, and administration to include name, address, Social Security Number (SSN), Department of Defense Identification Number (DoD ID Number), date of birth, place of birth, citizenship, race/ethnicity, marital status, education information (level, college name, major, specialty, graduation year, education duration months, education sponsor), gender, security clearance, designator, military records; rank, military orders and expense data, military training and qualifications, professional assignment history, military performance evaluations, and military promotions.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 620, Active-duty lists; 10 U.S.C. 617, Reports of Selection Boards and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''To assist Navy officials and employees in the classification, qualification determinations, assignment, placement, career development, education, training, recall and release of Navy personnel to meet manpower allocations and requirements.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper and/or electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Records may be retrieved by name, SSN, and/or DoD ID number.''

SAFEGUARDS:

Delete entry and replace with ''Must have Common Access Card (CAC) or

Public Key Infrastructure (PKI) to enter the Defense Information System Agency (DISA) environment and then at the individual application level logon and password controlled system, files and elements are accessible only to authorized persons having an official need-to-know. Physical access to terminals, terminal rooms, buildings and activities grounds is controlled by locked terminals and rooms, guards, personnel screening and visitor registers.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Destroy 1 month after release from active duty, when superseded or when no longer needed for reference, whichever is earliest. Paper records are disposed of by burning or shredding. Electronic records are deleted from encrypted hard drives.''

* * * * *

[FR Doc. 2013–15000 Filed 6–21–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0054]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual Performance Report for the Master's Degree Program for Historically Black Colleges and Universities

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 24, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0054 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual Performance Report for the Master's Degree Program for Historically Black Colleges and Universities.

OMB Control Number: 1840–0813.

Type of Review: Extension without change of an existing collection of information.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 18.

Total Estimated Number of Annual Burden Hours: 360.

Abstract: The Department is requesting authorization to annually collect performance report data for the Historically Black Colleges and Universities (HBCU) Masters Degree Program. This information is being collected to comply with the Government Performance and Results Act (GPRA) of 1993, Section 4 (1115), and the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.253. EDGAR states that recipients of multi-year discretionary grants must submit an APR demonstrating that substantial progress has been made towards meeting the approved objectives of the project. Further, the Annual Performance Report (APR) lends itself to the collection of quantifiable data for this program. Grantees will be required to report on their progress towards meeting the performance measures established for the HBCU Master's Degree Program.

Dated: June 18, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–14924 Filed 6–21–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2012–ICCD–0072]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Regulations for Equity in Athletics Disclosure Act (EADA)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 24, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2012–ICCD–0072 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Regulations for Equity in Athletics Disclosure Act (EADA).

OMB Control Number: 1840–0827.

Type of Review: Revision of an existing collection of information.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 2,074.

Total Estimated Number of Annual Burden Hours: 11,407.

Abstract: The Equity in Athletics Disclosure Act (EADA), found in section 485 of the Higher Education Act of 1965 (HEA), as amended, and its implementing regulations (34 CFR 668.41 and 34 CFR 668.47) require coeducational institutions that participate in the Title IV, HEA federal student aid programs and that have an intercollegiate athletic program to annually prepare a report on athletic participation, staffing, revenue and expenditures by gender, and by men's and women's teams. An institution must make the report available to students, potential students, and the public upon request. An institution must also report the data to the Department of Education and the Department makes the information publicly available on its Web site.

Dated: June 18, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–14926 Filed 6–21–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0171; FRL–9386–3]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, titled: ''Tier 2 Data Collection for Certain Chemicals Under the Endocrine Disruptor Screening Program (EDSP)'' and identified by EPA ICR No. 2479.01 and OMB Control No. 2070—New, represents a new request related to the next phase of an existing program. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before August 23, 2013.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2013–0171, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Teresa Green, Office of Science Coordination and Policy (7203M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8440; email address: *green.teresa@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it 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 estimates 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.
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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.
5. EPA is specifically requesting comments on the duration of the time allotted for the Reproduction and Fertility Effects test (OCSPP Guideline 870.3800). The Agency is considering a range from 24 to 48 months, but for the purpose of the ICR calculations, it is assumed that all work will be completed within the 3-year duration of the ICR.

II. What Information Collection Activity or ICR does this action apply to?

Title: Tier 2 Data Collection for Certain Chemicals Under the Endocrine Disruptor Screening Program (EDSP).

ICR number: EPA ICR No. 2479.01.

OMB control number: 2070–New.

ICR status: This ICR covers new information collection activities

associated with the next phase of an existing program. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers the information collection activities associated with Tier 2 data collection activities for certain chemicals under EPA's EDSP. The EDSP is established under section 408(p) of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a(p)), which requires EPA to develop a chemical screening program using appropriate validated test systems and other scientifically relevant information to determine whether certain substances may have hormonal effects. The EDSP consists of a two-tiered approach to screen chemicals for potential endocrine disrupting effects. The purpose of Tier 1 screening is to identify substances that have the potential to interact with the estrogen, androgen, or thyroid hormone systems using a battery of assays. Substances that have the potential to interact with estrogen, androgen or thyroid hormone systems may proceed to Tier 2, which is designed to identify any adverse endocrine-related effects caused by the substance, and establish a quantitative relationship between the dose and that endocrine effect. Additional information about the EDSP is available through the Agency's Web site at *http://www.epa.gov/endo.*

This ICR addresses the information collection activities for those chemicals that were screened under Tier 1 of the EDSP and are now proceeding to testing under Tier 2 of the EDSP. The ICR covers the full range of information collection activities associated with Tier 2 of the EDSP, including the paperwork activities associated with the issuance of Tier 2 orders, initial responses from order recipients, paperwork activities associated with generating the data requested, and submitting the data to EPA pursuant to the order. Under the PRA, the ICR is intended to cover a 3-year period.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 204 and 9,750 hours, depending on the respondent category, with an estimated burden cost between $18,842 and $602,488. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by the collection activities in this ICR are those individuals and companies that receive an EDSP Tier 2 order issued by the Agency. Under FFDCA section 408(p)(5)(A), EPA ''shall issue'' EDSP test orders ''to a registrant of a substance for which testing is required . . . or to a person who manufactures or imports a substance for which testing is required.''

Estimated total number of potential respondents: 210.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 110,750 hours.

Estimated total annual costs: $7,375,603. This primarily represents estimated burden cost, with related administrative costs of $104. Given the nature of the activities, there are no costs estimated for capital investment or maintenance and operational costs.

III. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another Federal Register document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Chemicals, Endocrine disruptors, Pesticides and pests, Reporting and recordkeeping.

Dated: May 14, 2013.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2013–15035 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0665; FRL–9533–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Magnetic Tape Manufacturing Operations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 24, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0665, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 17, 2012 (77 *FR* 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number

EPA–HQ–OECA–2012–0665, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Magnetic Tape Manufacturing Operations (Renewal).

ICR Numbers: EPA ICR Number 1678.08, OMB Control Number 2060–0326.

ICR Status: This ICR is scheduled to expire on June 30, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart EE.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

Respondents/Affected Entities: Magnetic tape manufacturing operations.

Estimated Number of Respondents: 6.

Frequency of Response: Initially, occasionally, quarterly, semiannually and annually.

Estimated Total Annual Hour Burden: 3,905. ''Burden'' is defined at 5 CFR 1320.3(b).

Estimated Total Annual Cost: $425,110, which includes $378,110 in labor costs, $11,000 in capital/startup costs, and $36,000 in operation and maintenance (O&M) costs.

Changes in the Estimates: The increase in burden from the most recently-approved ICR is due to an adjustment in labor rates and updated assumptions used to estimate technical hours per year. This ICR uses updated labor rates from the Bureau of Labor Statistics to calculate burden costs.

In addition to updated labor rates, there is an update to the assumptions used to estimate technical hours per year for the calculated burden costs. In the previous ICR, it was assumed that the per respondent burden hour for each activity accounts for technical, managerial, and clerical hours. In order to have consistency in the burden calculations in the ICR renewal process, this ICR assumes the per respondent burden hour accounts for technical hours only. This results in a slight increase in burden hours and costs for both the respondents and the Agency.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–15024 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0701; FRL–9533–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Miscellaneous Coating Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 24, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0701, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring Assistance and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 17, 2012 (77 *FR* 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0701, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then

key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Miscellaneous Coating Manufacturing (Renewal).

ICR Numbers: EPA ICR Number 2115.04, OMB Control Number 2060–0535.

ICR Status: This ICR is scheduled to expire on June 30, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart HHHHH. Owners or operators of the affected facilities must submit an initial notification report, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

Respondents/Affected Entities: Miscellaneous coating manufacturing facilities.

Estimated Number of Respondents: 135.

Frequency of Response: Initially, occasionally, semiannually and annually.

Estimated Total Annual Hour Burden: 171,406 *''Burden'' is defined at 5 CFR 1320.3(b).*

Estimated Total Annual Cost: $19,475,893 which includes $16,597,393 in labor costs, $30,000 in capital/startup costs, and $2,848,500 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an adjustment increase in the respondent burden hours and costs as currently identified in the OMB Inventory of Approved Burdens. This adjustment increase in burden from the most-recently approved ICR is due to a projected growth in the respondent universe, which results in an increase in the total number of sources, as well as updated labors rates available from the Bureau of Labor Statistics. The growth in respondent universe also results in an increase in the total O&M costs.

There is also a decrease in the EPA burden hours and costs due to a correction in this ICR. The previous ICR assumed that all existing sources have submitted an emission averaging plan, but incorrectly presented EPA burden for the annual review of emission averaging plans. This ICR corrects this inconsistency, which results in a decrease in Agency burden.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–15027 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2006–0408; FRL 9532–9]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA's WaterSense Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''EPA's WaterSense Program (Renewal)'' (EPA ICR No. 2233.06, OMB Control No. 2040–0272) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2013. Public comments were previously requested via the **Federal Register** (78 FR 13872) on March 1, 2013 during a 60-day comment period. No comments were received. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before July 24, 2013.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2006–0408, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Alicia Marrs, WaterSense Branch, Municipal Support Division, Office of Wastewater Management, Office of Water, U.S. Environmental Protection Agency, Mail Code 4204M, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 303–312–6269; fax number: 1–877–876–9101; email address: *marrs.alicia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: WaterSense is a voluntary program designed to create self-sustaining markets for water-efficient products and services via a common label. The program provides incentives for manufacturers and builders to design, produce, and market water-efficient products and homes. In addition, the program provides incentives for certified professionals (e.g. certified irrigation auditors, designers, or installation and maintenance professionals) to deliver water-efficient services. The program also encourages consumers and commercial and institutional purchasers of water-using products and systems to choose water-efficient products and use water-efficient practices.

As part of strategic planning efforts, EPA encourages programs to develop meaningful performance measures, set ambitious targets, and link budget expenditures to results. Data collected under this ICR will assist WaterSense in demonstrating results and carrying out evaluation efforts to ensure continual program improvement. In addition, the data will help EPA estimate water and

energy savings and inform future product categories and specifications.

Form Numbers: * Forms not yet finalized in *italics.*

Partnership Agreement: Irrigation partners (6100–07), Promotional partners (6100–06), Retailers/distributors (6100–12). Manufacturers (6100–13), Professional Certifying Organizations (6100–07), Builders (6100–19), Licensed Certification Providers (6100–20), Licensed Certifying Body (6100–13)

Annual Reporting Form: Promotional partners (6100–09), Manufacturers (6100–09), Retailers/Distributors (6100–09), Builders (6100–09), *Professional Certifying Organizations (6100–X1)*

Provider Quarterly Reporting Form: Licensed Certification Providers (6100–09)

Award Application Form: Irrigation Partners (6100–17), Promotional Partners (6100–17), Manufacturers (6100–17), Retailers/Distributors (6100–17), Builders (6100–17), Licensed Certification Providers (6100–17), Professional Certifying Organizations (6100–17)

Consumer Awareness Survey: *Survey form (6100–X2)*

Respondents/affected entities: Respondents will consist of WaterSense partners and participants in the consumer survey. WaterSense partners include product manufacturers; professional certifying organizations; retailers; distributors; utilities; federal, state, and local governments; home builders; irrigation professionals; licensed certification providers; and NGOs.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 1,087 (total).

Frequency of response: Once a prospective partner organization reviews WaterSense materials and decides to join the program, it will submit the appropriate Partnership Agreement for its partnership category (this form is only submitted once). Each year, EPA also asks partners to submit an Annual Reporting Form and Awards Application (voluntarily at the partner's discretion). Licensed certification providers for WaterSense-labeled new homes are asked to submit a Provider Quarterly Reporting Form four times each year. EPA also will conduct a Consumer Awareness Survey once over the three-year period of the ICR.

Total estimated burden: 4,110 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $316,018 (per year), includes $1,282 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 17,141 hours in the estimated burden on respondents compared with the ICR currently approved by OMB.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–15028 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0664; FRL–9533–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 24, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0664, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 17, 2012 (77 *FR* 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0664, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (Renewal).

ICR Numbers: EPA ICR Number 1666.09, OMB Control Number 2060–0283.

ICR Status: This ICR is scheduled to expire on June 30, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the

NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart O.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

Respondents/Affected Entities: Owners or operator of commercial ethylene oxide sterilization and fumigation operations.

Estimated Number of Respondents: 122. *''Burden'' is defined at 5 VFR 1320.3(b).*

Frequency of Response: Initially, occasionally and semiannually.

Estimated Total Annual Hour Burden: 8,887.

Estimated Total Annual Cost: $1,524,913, which includes $860,413 in labor costs, $65,000 in capital/startup costs, and $599,500 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an adjustment increase in burden for both the respondents and the Agency from the most recently approved ICR. This is not due to any program changes. The increase is due to an update in labor rates and an increase of three respondents subject to the regulation since the last ICR. This results in an increase in respondent and Agency labor hours, costs, and total O&M costs.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–15023 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0681; FRL 9532–8]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Commercial and Industrial Solid Waste Incineration Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart CCCC) (Renewal)'' (EPA ICR No. 1926.06, OMB Control No. 2060–0450) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2013. Public comments were previously requested via the **Federal Register** (77 FR 63813) on October 17, 2012, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before July 24, 2013.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0681, to: (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 60, subpart CCCC. Owners or operators of the affected facilities must submit an initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Owners or operators of commercial and industrial solid waste incineration units.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart CCCC).

Estimated number of respondents: 30 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 5,965 hours (per year). ''Burden'' is defined at 5 CFR 1320.3(b).

Total estimated cost: $959,788 (per year), includes $382,200 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase in the Agency costs from the most recently approved ICR due to an increase in labor rates. This ICR uses updated labor rates in calculating all burden costs.

Additionally, when compared to the previous ICR, there is a decrease in respondent burden and an increase in the total O&M costs. The previous ICR included contractor labor costs associated with initial emissions testing and annual stack testing under Table 1, Annual Respondent Burden and Cost. Since the contractor labor costs apply solely to capital/startup and O&M activities, we have revised the ICR to reflect contractor labor costs under their respective capital/startup and O&M activities, and also have updated the associated contractor labor burden rate.

There is also a decrease in capital/startup costs in this ICR as new sources will become subject to the 2013 standards and will not have burden

associated with capital/startup under this NSPS.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–15026 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0678; FRL–9533–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Mineral Wool Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 24, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0678, to: 1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 17, 2012 (77 *FR* 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0678, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Mineral Wool Production (Renewal).

ICR Numbers: EPA ICR Number 1799.08, OMB Control Number 2060–0362.

ICR Status: This ICR is scheduled to expire on June 30, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart DDD.

Owners or operators of the affected facilities must submit an initial notification report, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

Respondents/Affected Entities: Owners or operator of mineral wool production facilities.

Estimated Number of Respondents: 6.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 1,581. *''Burden'' is defined at 5 CFR 1320.3 (b).*

Estimated Total Annual Cost: $157,566, which includes $153,066 in labor costs, no capital/startup costs, and $4,500 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in the respondent labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The reporting requirements have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall labor hours. However, there is an adjustment increase in the respondent labor costs due to the use of updated labor rates.

There is a decrease in Agency labor hours and costs due to a mathematical correction. The previous ICR incorrectly calculated the number of hours associated with review of excess emissions reports. This ICR corrects the error, which results in a decrease of 55 hours and an associated decrease in labor costs.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–15025 Filed 6–21–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork

burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 23, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0248.

Title: Section 74.751, Modification of Transmission Systems.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 400 respondents; 400 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement.

Total Annual Burden: 200 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 74.751(a) and (c) require licensees of low power TV or TV translator stations to send written notification to the FCC of equipment changes which may be made at licensee's discretion without the use of a formal application. Section 74.751(d) requires that licensees of low power TV or TV translator stations place in the station records a certification that the installation of new or replacement transmitting equipment complies in all respects with the technical requirements of this section and the station authorization. The notifications and certifications of equipment changes are used by FCC staff to ensure that the equipment changes made are in full compliance with the technical requirements of this section and the station authorizations and will not cause interference to other authorized stations.

OMB Control Number: 3060–0216.

Title: Section 73.3538, Application to Make Changes in an Existing Station; Section 73.1690(e), Modification of Transmission Systems.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions.

Number of Respondents and Responses: 650 respondents; 650 responses.

Estimated Hours per Response: 0.50—3 hours

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement.

Total Annual Burden: 1,100 hours.

Annual Burden Cost: None.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303(r), 308, 309(j) and 337(e) of the Communications Act of 1934, as amended.

Privacy Impact Assessment: No impact(s)

Needs and Uses: Section 73.3538(b)(1) of the Commission's rules requires a broadcast station to file an informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure.

Section 73.1690(e) of the Commission's rules requires AM, FM and TV station licensees to prepare an informal statement or diagram describing any electrical and mechanical modification to authorized transmitting equipment that can be made without prior Commission approval provided that equipment performance measurements are made to ensure compliance with FCC rules. This informal statement or diagram must be retained at the transmitter site as long as the equipment is in use.

OMB Control Number: 3060–0185.

Title: Section 73.3613, Filing of Contracts.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 2,300 respondents; 2,300 responses.

Estimated Hours per Response: 0.25 to 0.5 hours

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third party disclosure

Total Annual Burden: 950 hours.

Total Annual Cost: $120,000.

Privacy Impact Assessment: No impact(s).

Obligation To Respond: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: No need for confidentiality required. The statutory authority for this collection is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Needs and Uses: 47 CFR 73.3613 requires each licensee or permittee of a commercial or noncommercial AM, FM, TV or International broadcast station shall file with the FCC copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations (with the substance of oral contracts reported in writing), within 30 days of execution thereof:

(a) Network service: Network affiliation contracts between stations and networks will be reduced to writing and filed as follows:

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity, or

corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation.

(2) Each such filing on or after May 1, 1969, initially shall consist of a written instrument containing all of the terms and conditions of such contract, agreement or understanding without reference to any other paper or document by incorporation or otherwise. Subsequent filings may simply set forth renewal, amendment or change, as the case may be, of a particular contract previously filed in accordance herewith.

(3) The FCC shall also be notified of the cancellation or termination of network affiliations, contracts for which are required to be filed by this section.

(b) Ownership or control: Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control shall include but are not limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document or instrument providing for the assignment of a license or permit, or affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or nonvoting), such as:

(i) Agreements for transfer of stock;

(ii) Instruments for the issuance of new stock; or

(iii) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Pledges, trust agreements, options to purchase stock and other executory agreements are required to be filed. However, trust agreements or abstracts thereof are not required to be filed, unless requested specifically by the FCC. Should the FCC request an abstract of the trust agreement in lieu of the trust agreement, the licensee or permittee will submit the following information concerning the trust:

(A) Name of trust;

(B) Duration of trust;

(C) Number of shares of stock owned;

(D) Name of beneficial owner of stock;

(E) Name of record owner of stock;

(F) Name of the party or parties who have the power to vote or control the vote of the shares; and

(G) Any conditions on the powers of voting the stock or any unusual characteristics of the trust.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of 1 year, and all proxies, whether or not running for a period of 1 year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted. However, when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1% or more of the corporation's voting stock. When the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are not officers or directors or do not hold 1% or more of the corporation's stock, the only information required to be filed is the name of any person voting 1% or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, or the maintenance of current assets.

(6) Any agreement reflecting a change in the officers, directors or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by § 73.3615.

(7) Agreements providing for the assignment of a license or permit or agreements for the transfer of stock filed in accordance with FCC application Forms 314, 315, 316 need not be resubmitted pursuant to the terms of this rule provision.

(c) Personnel: (1) Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee; station management contracts with any persons, whether or not officers, directors, or regular employees, which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: Agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d)(1) *Time brokerage agreements (also known as local marketing agreements):* Time brokerage agreements involving radio stations where the licensee (including all parties under common ownership) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in § 73.3555(a), and more than 15 percent of the time of the brokered station, on a weekly basis is brokered by that licensee; time brokerage agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both licensed to the same market as defined in the local television multiple ownership rule contained in § 73.3555(b), and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee; time brokerage agreements involving radio or television stations that would be attributable to the licensee under § 73.3555 Note 2, paragraph (i). Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

(2) *Joint sales agreements:* Joint sales agreements involving radio stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in § 73.3555(a), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that licensee. Confidential or proprietary information may be redacted where appropriate but such information

shall be made available for inspection upon request by the FCC.

(e) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC; sub-channel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the television vertical blanking interval and in the visual signal; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators.

OMB Control Number: 3060–0932.

Title: Application for Authority to Construct or Make Changes in a Class A Television Broadcast Station, FCC Form 301–CA; 47 CFR Section74.793(d).

Form Number: FCC Form 301–CA.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; State, local or tribal government.

Number of Respondents and Responses: 400 respondents; 400 responses.

Estimated Time per Response: 2.25–6 hours.

Frequency of Response: On occasion reporting requirement; One-time reporting requirement; Third party disclosure requirement.

Total annual burden: 3,300.

Total annual costs: $3,199,200.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 307, 308, 309 and 319 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: FCC Form 301–CA is to be used in all cases by a Class A television station licensees seeking to make changes in the authorized facilities of such station. The FCC Form 301–CA requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions on the FCC Form 301–CA provide additional information regarding Commission rules and policies. The FCC 301–CA application is presented primarily in a ''Yes/No'' certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the ''Yes'' certification when they are certain that the response is correct. A ''No'' response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy.

47 CFR Section 74.793(d) requires that digital low power and TV translator stations shall be required to submit information as to vertical radiation patterns as part of their application (301–CA) for new or modified construction permits.

OMB Control Number: 3060–0404.

Title: Application for an FM Translator or FM Booster Station License, FCC Form 350.

Form Number: FCC Form 350.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Reponses: 350 respondents; 350 responses.

Frequency of Response: On occasion reporting requirement.

Estimated Time per Response: 1 hour.

Total Annual Burden: 350 hours.

Total Annual Cost: $26,250.

Obligation to Respond: Required to obtain and retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 307, 308 and 309 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: Licensees and permittees of FM Translator or FM Booster stations are required to file FCC Form 350 to obtain a new or modified station license. The data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit. Data from the FCC Form 350 is extracted for inclusion in the subsequent license to operate the station.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–14903 Filed 6–21–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 23, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0669.

Title: Section 76.946, Advertising of Rates.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 8,250 respondents; 8,250 responses.

Estimated Time per Response: 30 minutes (0.5 hours).

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden to Respondents: 4,125 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 4(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s)

Needs and Uses: 47 CFR 76.946 states that cable operators that advertise rates for basic service and cable programming service tiers shall be required to advertise rates that include all costs and fees. Cable systems that cover multiple franchise areas having differing franchise fees or other franchise costs, different channel line-ups, or different rate structures may advertise a complete range of fees without specific identification of the rate for each individual area. In such circumstances, the operator may advertise a ''fee plus'' rate that indicates the core rate plus the range of possible additions, depending on the particular location of the subscriber.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–14905 Filed 6–21–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written comments should be submitted on or before July 24, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via fax 202–395–5167, or via email *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov <mailto:PRA@fcc.gov>* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the ''Supplementary Information'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *<http://www.reginfo.gov/public/do/PRAMain>,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0647.

Title: Annual Survey of Cable Industry Prices, FCC Form 333.

Form Number: FCC Form 333.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or Tribal Government.

Number of Respondents and Responses: 760 respondents and 760 responses.

Estimated Time per Response: 6 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 4,560 hours.

Total Annual Cost: None.

Obligation to Respond: Mandatory. The statutory authority for this information collection is in Sections 4(i) and 623(k) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: If individual respondents to this survey wish to request confidential treatment of any data provided in connection with this survey, they can do so upon written request, in accordance with Sections 0.457 and 0.459 of the Commission's rules. To request confidential treatment of their data, respondents must describe the specific information they wish to protect and provide an explanation of why such confidential treatment is appropriate. If a respondent submits a request for confidentiality, the Commission will review it and make a determination.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Cable Television Consumer Protection and Competition Act of 1992 (''Cable Act'') requires the Commission to publish annually a report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to effective competition and those that are not subject to effective competition. The Annual Cable Industry Price Survey is intended to collect the data needed to prepare that report. The data from these questions are needed to complete this report.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–14906 Filed 6–21–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 23, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov mailto:PRA@fcc.gov* and to *Cathy.Williams@fcc.govmailto:Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0466.

Title: Sections 73.1201, 74.783 and 74.1283, Station Identification.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Parties: Business or other for-profit entities; Not for-profit institutions.

Number of Respondents and Responses: 24,083 respondents; 24,083 responses.

Estimated Time per Response: 0.166—1 hour.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or maintain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i), 303, 307 and 308.

Total Annual Burden: 23,249 hours.

Total Annual Costs: None.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1201(a) requires television broadcast licensees to make broadcast station identification announcements at the beginning and ending of each time of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings. Television and Class A television broadcast stations may make these announcements visually or aurally.

47 CFR 74.783(b) requires licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television station licensee to keep in its file, and available to FCC personnel, the translator's call letters and location, giving the name, address and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the television station licensee for this purpose.

47 CFR 73.1201(b)(1) requires that the official station identification consist of the station's call letters immediately followed by the community or communities specified in its license as the station's location. The name of the licensee, the station's frequency, the station's channel number, as stated on the station's license, and/or the station's network affiliation may be inserted between the call letters and station location. Digital Television (DTV) stations, or DAB Stations, choosing to include the station's channel number in the station identification must use the station's major channel number and may distinguish multicast program streams. For example, a DTV station with major channel number 26 may use 26.1 to identify a High Definition Television (HDTV) program service and 26.2 to identify a Standard Definition Television (SDTV) program service. A radio station operating in DAB hybrid mode or extended hybrid mode shall identify its digital signal, including any free multicast audio programming streams, in a manner that appropriately alerts its audience to the fact that it is listening to a digital audio broadcast. No other insertion between the station's call letters and the community or communities specified in its license is permissible. A station may include in its official station identification the name of any additional community or communities, but the community to which the station is licensed must be named first.

47 CFR 74.783(e) permits low power TV permittees or licensees to request to be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs.

47 CFR 74.1283(c)(1) requires a FM translator station licensee whose identification is made by the primary station must arrange for the primary station licensee to furnish the translator's call letters and location (name, address, and telephone number of the licensee or service representative) to the FCC. The licensee must keep this information in the primary station's files.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–14904 Filed 6–21–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

[File No. 131 0052]

Tesoro Corporation and Tesoro Logistics Operations LLC; Analysis of Proposed Agreement Containing Consent Orders to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 19, 2013.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/tesorochevronconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Tesoro/Chevron, File No. 131 0052'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/tesorochevronconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Philip M. Esienstat (202–326–2769), FTC, Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 17, 2013), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 19, 2013. Write ''Tesoro/Chevron, File No. 131 0052'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/tesorochevronconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Tesoro/Chevron, File No. 131 0052'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 19, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission (the ''Commission''), subject to its final approval, has accepted for public comment an Agreement Containing Consent Orders (''Consent Agreement'') with Tesoro Corporation and Tesoro Logistics Operations LLC (''Respondents''). On December 6, 2012, Respondents executed related Asset Sale and Purchase Agreements with the Northwest Terminalling Company and Chevron Pipeline Company, subsidiaries of Chevron Corporation, to acquire the Northwest Products Pipeline system and Chevron's associated terminals, including a terminal in Boise, Idaho, for a total of $355 million (the ''Acquisition''). Respondents already own and operate a terminal in Boise, Idaho (the ''Tesoro Terminal'').

The Commission's Complaint alleges that Respondents have entered into an acquisition agreement that constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and which, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, by substantially lessening competition in terminaling services for light petroleum products in the Boise, Idaho Metropolitan Statistical Area (''Boise MSA''). The Acquisition would reduce the competitive options

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

for terminaling services in the Boise MSA from three to two, with Respondents owning the two largest terminals. The proposed Consent Agreement effectively remedies the Acquisition's possible anticompetitive effects by requiring Respondents to divest its own terminal in Boise, the Tesoro Terminal.

II. Respondents and Other Relevant Entities

A. Tesoro Corporation

Tesoro Corporation is a publically traded corporation principally engaged in the refining and marketing of petroleum products in the United States.

B. Tesoro Logistics Operations LLC

Tesoro Logistics Operations LLC, a limited liability company, is a wholly owned subsidiary of Tesoro Logistics LP, a publically traded limited partnership. Respondent Tesoro Corporation individually and through its subsidiaries owns Tesoro Logistics GP, LLC, the general partner of Tesoro Logistics LP. Tesoro Logistics GP, LLC manages the operations and employs the personnel of Tesoro Logistics LP, and owns a two percent general partner interest in the partnership. Tesoro Corporation directly owns 37.6% of limited partner interest in Tesoro Logistics LP.

Tesoro Logistics Operations LLC directly or indirectly owns a number of petroleum products terminals, including the Tesoro Terminal in Boise, Idaho, that receive light petroleum products off the Northwest Pipeline. The Tesoro Terminal in Boise stores product it receives off the pipeline and provides facilities to load the product onto tank trucks for local distribution.

C. Chevron Corporation

Chevron Corporation (''Chevron'') is a publically traded corporation principally engaged in fully integrated petroleum operations in the United States, including the exploration, production, manufacture, transportation, and sale of petroleum products. Chevron, through Chevron Pipeline Company, owns and operates the Northwest Pipeline, a 760-mile interstate common-carrier pipeline that transports petroleum products from Salt Lake City to the states of Idaho, and Washington. Chevron, through Northwest Terminalling Company owns petroleum terminals along the Northwest Pipeline in Idaho and Washington, including one in Boise, Idaho.

III. Distribution of Petroleum Products and Competitive Effects

Pipelines and terminals play a key role in the distribution of refined light petroleum products, a product category that includes gasoline, diesel fuel, and jet fuel. Pipelines are the least expensive means of moving bulk quantities of light petroleum products across land. The alternatives, rail transportation and truck transportation, are not cost competitive when pipeline transportation is available.

Terminals provide a critical connection between bulk supply through pipelines and local distribution of light petroleum products. The efficient operation of pipelines requires continuous shipment of large volumes of light petroleum products. Efficient local distribution utilizes tank trucks to pick up product from the terminal and deliver it to customers.

Terminals have specialized truck-loading facilities, known as ''truck racks,'' to transfer light petroleum products from storage tanks to individual tank trucks. Terminal services provided to suppliers of light petroleum products include storage, dispensing, and ethanol and additive blending. Suppliers of light petroleum products trying to reach a particular local market have no economically viable alternative to terminals.

The Acquisition would reduce the competitive options for terminaling services in Boise from three to two, with Tesoro owning the two largest terminals. Currently, in the Boise MSA, there are three terminals and one storage facility lacking truck racks. Tesoro, Chevron, and United Oil Company each own and operate terminals. Holly Energy Partners and Sinclair Corporation jointly own a storage facility under the name Boise Petroleum. This facility cannot load light petroleum products into tank trucks because it lacks a truck rack. Companies storing light petroleum products at Boise Petroleum must move the products to another terminal to load it onto tank trucks for delivery to the Boise market.

Of the three terminals in Boise, the Tesoro Terminal and the Chevron terminal together account for the most of the terminal capacity. The United Oil terminal is the smallest terminal in Boise. Tesoro's control of most of the terminal capacity in Boise may substantially lessen competition in the relevant market. It increases the likelihood that Tesoro would exercise market power unilaterally by raising the terminaling fees or denying access to terminaling services for light petroleum products in the Boise MSA.

IV. The Proposed Agreement Containing Consent Orders

Under the Proposed Agreement Containing Consent Orders, Respondents have one hundred and eighty (180) days from the issuance of the Decision and Order (''Order'') to divest the Tesoro Terminal, to a Commission-approved buyer. Pursuant to the Order, Respondents may complete the Acquisition of Chevron's Northwest Pipeline and associated terminals immediately upon issuance of the Order. The required divestiture of the Tesoro Terminal will maintain the level of competition that existed in the market for terminaling services in the Boise MSA prior to the Acquisition. The Order to Maintain Assets (discussed in the next section) will protect the competitive status quo until Respondents are able to find a suitable buyer of the Tesoro Terminal.

The Order contains an ''open season'' provision. Respondents agree to let any customer at the Chevron Boise terminal terminate its contract without penalties for a period of six months after the divestiture sale of the Tesoro Terminal. Respondents agree to notify customers at the Chevron Boise terminal of their right to terminate their existing contracts. These provisions will ensure that the new owner of the Tesoro Terminal can compete for new business to replace Respondents' current business at the Tesoro Terminal. Respondents are the only customer of the Tesoro Terminal and they could move their business to the Chevron Boise terminal when the divestiture is completed.

The Order requires Respondents to provide transitional assistance and support services to the buyer of the Tesoro Terminal. Respondents must also license any key software and intellectual property to the buyer. The Order allows the buyer to recruit Respondents' employees who work at the Tesoro Terminal. For a period of two years after the divestiture of the Tesoro Terminal, Respondents may not solicit the employees that accept employment offers from the buyer, to rejoin Respondents. The Order also limits Respondents' access to, and use of, confidential business information pertaining to the Tesoro Terminal.

If Respondents fail to fully divest the Tesoro Terminal within the one hundred and eighty (180) day time period, the Order grants the Commission power to appoint a divestiture trustee to complete the divestiture. The Commission may also

appoint a divestiture trustee, if it brings an action against Respondents pursuant to Section 5(l) of the FTC Act. The Order also governs the divestiture trustee's duties, privileges, and powers.

The Order requires Respondents, or the divestiture trustee, if appointed, to file periodic reports detailing efforts to divest the Tesoro Terminal and the status of that undertaking. Commission representatives may gain reasonable access to Respondents' business records related to compliance with the consent agreement. The Order terminates ten (10) years after its issuance.

V. The Order to Maintain Assets

The Order to Maintain Assets seeks to preserve the Tesoro Terminal as a viable, competitive, ongoing business, and to ensure that Respondents do not access the confidential business information belonging to this business. Respondents agree to preserve the Tesoro Terminal in substantially the same condition existing at the time when Respondents executed the Consent Agreement. Pursuant to the Order to Maintain Assets, Respondents will provide the Tesoro Terminal with sufficient financial and other resources to maintain current operation levels and carry already planned capital and improvement projects.

The Order to Maintain Assets also empowers the Commission to appoint a monitor to oversee Respondents' compliance with their obligations under the Order. The Order to Maintain Assets outlines the rights, duties, and responsibilities of the monitor, including access to business records, hiring necessary consultants and attorneys, and any other thing reasonably necessary to carry out their duties. The Order to Maintain Assets further prohibits Respondents from interfering with the monitor's obligations and requires them to indemnify the monitor.

The monitor shall submit periodic reports to the Commission concerning compliance with the Order to Maintain Assets. The Commission may appoint a different monitor if the original monitor fails to carry out his duties. The Order to Maintain Assets terminates either (1) three days after the Commission withdraws its acceptance of the Consent Agreement or (2) three days after the monitor completes its final report required by Paragraph V.C.(ii) of this Order to Maintain Assets.

VI. Opportunity for Public Comment

The proposed Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. The Commission has also issued its Complaint in this matter. Comments received during this comment period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received and will decide whether it should withdraw from the Consent Agreement, modify it, or make final the proposed Order.

By accepting the proposed Consent Agreement subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed Order to aid the Commission in its determination of whether it should make final the proposed Order contained in the Agreement. This analysis is not intended to constitute an official interpretation of the proposed Order, nor is it intended to modify the terms of the proposed Order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2013–14923 Filed 6–21–13; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: National Vaccine Program Office, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of a teleconference meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will be holding a special meeting. This meeting will be held utilizing a means of virtual technology; the meeting will be conducted as an audio telephone conference call. The meeting will be open to the public. Individuals may call in to attend this virtual meeting. A public comment session will be provided. Participation in this meeting is limited to 60 people. Therefore, pre-registration is required for both public participation and comment. Individuals who wish to participate in the meeting by audio telephone conference call and/or provide public comment should pre-register by sending an email to *nvpo@hhs.gov* or calling (202) 690–5566. Individuals will be required to provide their name, organization, and email address to pre-register. The meeting agenda will be posted on the NVAC Web site at *http://www.hhs.gov/nvpo/nvac* as soon as it becomes available.

DATES: The meeting will be held on Friday, June 21, 2013, from 11:00 a.m. to 12:00 p.m. EDT. This meeting will be conducted utilizing a means of virtual technology only.

ADDRESSES: This meeting will be conducted only by audio conference call.

FOR FURTHER INFORMATION CONTACT: National Vaccine Program Office, Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Telephone: (202) 690–5566; Fax: (202) 690–4631; Email address: *nvpo@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 2102 of the Public Health Service Act (42 U.S.C. 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program (NVP) to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. NVAC was established to provide advice and make recommendations to the Director of NVP on matters related to the program's responsibilities. The Assistant Secretary for Health (ASH) serves as Director of the NVP.

NVAC met on June 11–13, 2013. The Committee's discussion included its intent to deliberate and vote on advice to be given to the ASH on the proposed rule from the Centers for Medicare and Medicaid Services (CMS) to remove the Immunization for Pneumonia Measure (IMM–1) from the Inpatient Quality Reporting Program. The comment period for the proposed rule ends on June 25, 2013. NVAC is not scheduled to meet again before the end of the comment period for the proposed rule. Therefore, it has been decided that a special meeting should be convened for the NVAC to develop and discuss recommendations to be submitted to the ASH on the proposed rule. The proposed rule is printed in the **Federal Register**, Vol. 78. No. 91, Friday, May 10, 2013, pp. 27486–27823. It is also available at *https://www.federalregister.gov/articles/2013/05/10/2013-10234/medicare-program-hospital-inpatient-prospective-payment-systems-for-acute-care-hospitals-and-the:*

Audio participation in this meeting is available to the public. The following information is provided for individuals who wish to participate in this meeting by telephone: Toll free number for calls originating in the United States: 1–888–677–1385; Toll free number for calls originating outside the United States: 1–312–470–7133; the passcode for all originating calls is 8094285.

Please note that this special meeting is being held only to provide opportunity for the NVAC to provide recommendations to the ASH on comments to be given to CMS on the proposed rule. A decision was made at the meeting most recently held by NVAC on June 11–12, 2013, that the Committee should make recommendations to the ASH on the proposed rule. Comments on the proposed rule are due to be submitted to CMS no later than June 25, 2013. The number of days between the recent NVAC meeting and the due date for the comments to CMS is less than 15 days. Therefore, notice to the public about the NVAC being convened for this specific purpose could not be published in the **Federal Register**, as required by the Federal Advisory Committee Act, 15 days prior to the date the special meeting is scheduled to be held.

Dated: June 19, 2013.

Bruce Gellin,

Director, National Vaccine Program Office, and Executive Secretary, National Vaccine Advisory Committee.

[FR Doc. 2013–14996 Filed 6–21–13; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2013–0011; NIOSH–262]

Request for Information on Toluene Diisocyanates

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for Information.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) intends to evaluate the scientific data on toluene diissocyanate (TDI) and other TDI-based isocyanate products to develop a Criteria Document to establish an updated Recommended Exposure Limit (REL) for toluene diisocyanate. The current NIOSH REL for 2,4–TDI is the lowest feasible concentration with no ceiling due to the potential carcinogenicity of 2,4–TDI.

NIOSH is requesting information on the following: (1) Published and unpublished reports and findings from *in vitro* and *in vivo* toxicity studies with toluene diisocyanate; (2) information on possible health effects observed in workers exposed to toluene diisocyanate, including exposure data and the method(s) used for sampling and analyzing exposures; (3) description of work tasks and scenarios with a potential for exposure to toluene diisocyanate; (4) information on control measures (e.g. engineering controls, work practices, personal protective equipment, exposure data before and after implementation of control measures) that are being used in workplaces with potential exposure to toluene diisocyanate; and (5) surveillance findings including protocol, methods, and results.

DATES: *Public Comment Period:* Comments must be received August 8, 2013.

ADDRESSES: You may submit comments, identified by CDC–2013–0011 and Docket Number NIOSH–262, by either of the two following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

Instructions: All information received in response to this notice must include the agency name and docket number (CDC–2013–0011; NIOSH–262). All relevant comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. All electronic comments should be formatted as Microsoft Word. Please make reference to CDC–2013–0011 and Docket Number NIOSH–262.

FOR FURTHER INFORMATION CONTACT: Naomi Hudson, Dr.P.H., NIOSH, Robert A Taft Laboratories, MS–C32, 4676 Columbia Parkway, Cincinnati, OH 45226, telephone (513) 533–8388.

SUPPLEMENTARY INFORMATION: Toluene diisocyanates are colorless to pale yellow liquids or solids with a sharp, pungent odor. TDI is one of the most commonly used diisocyanates. The most common formulation of TDI is a mixture of two isomers: 80% 2,4–TDI and 20% 2,6–TDI. Approximately 541 million pounds of TDI were used in 2008, and 527 million pounds of TDI were used in 2010.

Occupational exposure occurs during production and use of diisocyanates, such as the mixing and foaming processes in the polyurethane foam industry, and during spray adhesive application in the automobile and furniture industries. TDI is an irritant to the eyes, skin, and the gastrointestinal and respiratory tracts. Workers exposed to TDI may also be sensitized, such that they might be subject to asthma attacks. In 1996 NIOSH published a NIOSH Alert, Preventing Asthma and Death from Diisocyanate Exposure [DHHS (NIOSH) Publication No. 96–111]. In 1989, NIOSH published a Current Intelligence Bulletin on toluene diisocyanate (TDI) and toluenediamine (TDA) [DHHS (NIOSH) Publication No. 90–101] which classified TDI and TDA (used in the manufacturing of TDI) as potential occupational carcinogens.

The current NIOSH REL for 2,4–TDI is the lowest feasible concentration with no ceiling due to the potential carcinogenicity of TDI. The OSHA permissible exposure limit (PEL) for TDI is 0.005 ppm, with a ceiling of 0.02 ppm. The American Conference of Governmental Industrial Hygienists (ACGIH) threshold limit value (TLV) for TDI is 0.005 ppm with a ceiling of 0.02 ppm to minimize effects on the respiratory tract and to minimize the potential for sensitization.

NIOSH seeks to obtain materials, including published and unpublished reports and research findings, to evaluate the possible health risks of occupational exposure to diisocyanates. Examples of requested information include, but are not limited to, the following:

(1) Identification of industries or occupations in which exposures to TDI may occur.

(2) Trends in the production and use of TDI.

(3) Description of work tasks and scenarios with a potential for exposure to TDI.

(4) Workplace exposure measurement data of TDI in various types of industries and jobs.

(5) Case reports or other health information demonstrating potential health effects in workers exposed to TDI.

(6) Research findings from *in vitro* and *in vivo* studies.

(7) Information on control measures (e.g., engineering controls, work practices, PPE) being taken to minimize worker exposure to TDI.

(8) Educational materials for worker safety and training on the safe handling of diisocyanates.

(9) Data pertaining to the feasibility of establishing a more protective REL for diisocyanates.

(10) Names of substitute chemicals or processes being used in place of TDI and type of work tasks.

Dated: June 17, 2013.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2013–15040 Filed 6–21–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Child Care and Development Block Grant Reporting Requirements—ACF–700.

OMB No.: 0970–0430.

Description: Thee Child Care and Development Fund (CCDF) report requests annual Tribal aggregate information on services provided through the CCDF, which is required by the CCDF Final Rule (45 FR parts 98 and 99). Tribal Lead Agencies (TLAs) are required to submit annual aggregate data appropriate to Tribal programs on children and families receiving CCDF-funded child care services. The CCDF statute and regulations also require TLAs to submit a supplemental narrative as part of the ACF–700 report. This narrative describes child care activities and actions in the TLA's service area. Information from the ACF–700 and supplemental narrative report will be included in the Secretary's Report to Congress, as appropriate, and will be shared with all TLAs to inform them of CCDF-funded activities in other Tribal programs.

Respondents: Tribal Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–700 Report	260	1	38	9,880

Estimated Total Annual Burden Hours: 9,880.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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 within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–14998 Filed 6–21–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: ADP & Services Conditions for FFP for ACF.

OMB No.: 0992–0005.

Description: The Advance Planning Document (APD) process, established in the rules at 45 CFR Part 95, Subpart F, is the procedure by which States request and obtain approval for Federal financial participation in their cost of acquiring Automatic Data Processing (ADP) equipment and services. State agencies that submit APD requests provide the Department of Health and Human Services (HHS) with the following information necessary to determine the States' needs to acquire the requested ADP equipment and/or services:

(1) A statement of need;

(2) A requirements analysis and feasibility study;

(3) A procurement plan

(4) A proposed activity schedule; and,

(5) A proposed budget.

HHS' determination of a State Agency's need to acquire requested ADP equipment or services is authorized at sections 402(a)(5), 452(a)(1), 1902(a)(4) and 1102 of the Social Security Act.

Respondents: States.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
RFP and Contract	54	1.5	4	324
Emergency Funding Request	5	.1	2	1
Biennial Reports	26	1	1.50	39
Advance Planning Document	34	1.2	120	4,896
Operational Advance Planning Document	20	1	30	600

Estimated Total Annual Burden Hours: 5,862

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov*.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*. Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–14993 Filed 6–21–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Nonprescription Drugs 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: Nonprescription Drugs 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 31, 2013, from 8 a.m. to 5 p.m.

Location: DoubleTree by Hilton Hotel Washington DC/Silver Spring, The Ballrooms, 8727 Colesville Rd., Silver Spring, MD. The hotel's telephone number is 301–589–5200.

Contact Person: Glendolynn S. Johnson, 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: *NDAC@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: The committee will discuss data submitted by sanofi-aventis U.S., LLC to support a supplemental new drug application (sNDA) 20468/S–035, for the switch from prescription to over-the-counter (OTC) of triamcinolone acetonide nasal spray. The proposed OTC use is ''temporarily relieves these symptoms of hay fever or other upper respiratory allergies: Nasal congestion, runny nose, sneezing, itchy nose.'' The applicant proposes to label the product for OTC use in adults and children. The data to be discussed will include studies addressing the potential adverse effects, as well as a summary of the postmarketing experience with the triamcinolone acetonide nasal spray addressing the potential for both systemic and local effects. The committee will be asked to consider whether the data support the appropriate and safe use of triamcinolone acetonide nasal spray by OTC consumers.

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 25, 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 July 23, 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 July 24, 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 Glendolynn S. Johnson 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: June 17, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–14930 Filed 6–21–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Joint Meeting of the Risk Communication Advisory Committee and Tobacco Products Scientific Advisory Committee; Notice of Joint 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: Risk Communication Advisory Committee and Tobacco Products Scientific Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

DATES: *Date and Time:* The meeting will be held on August 15, 2013 from 9 a.m. to 5 p.m.

ADDRESSES: Food and Drug Administration, White Oak Campus.

Location: FDA White Oak Conference Center, Bldg. 31, Rm. 1503, 10903 New Hampshire Ave., 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: Luis G. Bravo, Designated Federal Official, 10903 New Hampshire Ave., Bldg. 32, Rm. 3274, Silver Spring, MD 20993, 1–877–287–1373 (choose option 5), email: *RCAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), to find out further information regarding FDA advisory committee information. 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: The Federal Food, Drug & Cosmetic Act (the FD&C Act) requires tobacco product manufacturers and importers to report quantities of harmful and potentially harmful constituents (HPHCs) in tobacco products or tobacco smoke by brand and subbrand. The FD&C Act also requires the Agency to publish a list of HPHCs by brand and by quantity in each brand and subbrand by April of 2013, in a format that is understandable and not misleading to the layperson.

On August 15, 2013, the Committees will meet in joint session to discuss the results of the FDA consumer research ''Experimental Study on the Public Display of Lists of Harmful and Potential Harmful Tobacco Constituents'' [OMB Control No. 0910–0736] to assess the impact of HPHC information on consumer perceptions and comprehension, and how to effectively communicate information about the HPHCs of tobacco products to the general public.

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 August 1, 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 July 25, 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 July 26, 2013. Interested persons can also log on to *https://collaboration.fda.gov/rcac/* to hear and see the proceedings.

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 Luis G. Bravo 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: June 18, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–14947 Filed 6–21–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Tribal Self-Governance Program, Negotiation Cooperative Agreement, Announcement Type: New—Limited Competition

Funding Announcement Number: HHS–2013–IHS–TSGN–0001.

Catalog of Federal Domestic Assistance Number: 93.444.

Key Dates

Application Deadline Date: July 31, 2013.

Review Date: August 12, 2013.

Earliest Anticipated Start Date: August 30, 2013.

Signed Tribal Resolutions Due Date: July 31, 2013.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Tribal Self-Governance (OTSG) is accepting limited competition Negotiation Cooperative Agreement applications for the Tribal Self-Governance Program (TSGP). This program is authorized under Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 458aaa–2(e). This program is described in the Catalog of Federal Domestic Assistance (CFDA), available at *https://www.cfda.gov/,* under 93.444.

Background

The TSGP is more than an IHS program; it is an expression of the government-to-government relationship between the United States and Indian Tribes. Through the TSGP, Tribes negotiate with the IHS to assume IHS Programs, Services, Functions and Activities (PSFAs), or portions thereof, which enables Tribes to manage and tailor health care programs in a manner that best fits the needs of their communities.

Participation in the TSGP is one of three ways that Tribes can choose to obtain health care from the Federal Government for their members. Specifically, Tribes can choose to: (1) Receive health care services directly from the IHS, (2) contract with the IHS to administer individual PSFAs the IHS would otherwise provide (referred to as Title I Self-Determination Contracting), or (3) compact with the IHS to assume control over health care PSFAs the IHS would otherwise provide (referred to as Title V Self-Governance Compacting or the TSGP). These options are not exclusive; Tribes may choose to combine them based on their individual needs and circumstances. Participation in the TSGP affords Tribes the most flexibility to tailor health care PSFAs to the needs of their communities.

The TSGP is a Tribally-driven initiative, and strong Federal-Tribal partnerships are essential to the program's success. The IHS established the OTSG to implement Tribal Self-Governance authorities within the IHS. The OTSG: (1) Serves as the primary liaison and advocate for Tribes participating in the TSGP, (2) develops, directs, and implements Tribal Self-Governance policies and procedures, (3) provides information and technical assistance to Self-Governance Tribes, and (4) advises the IHS Director on IHS compliance with TSGP policies, regulations, and guidelines. Each IHS Area has an Agency Lead Negotiator (ALN) that negotiates Self-Governance instruments (Compacts and Funding Agreements) on behalf of the IHS Director. A Tribe should contact the respective ALN to begin the Self-Governance negotiations process and discuss methods to expand current PSFAs. The ALN shall provide an overview of the TSGP and provide technical assistance as the Tribe explores the option of participating in or expanding current PSFAs within the TSGP.

Purpose

The purpose of this Negotiation Cooperative Agreement is to provide Tribes with resources to help defray costs related to preparing for and conducting TSGP negotiations. TSGP negotiations are a dynamic, evolving, and Tribally-driven process that requires careful planning and preparation by both Tribal and Federal parties, including the sharing of precise, up-to-date information. The design of the negotiations process: (1) Enables a Tribe to set its own priorities when assuming responsibility for IHS PSFAs, (2) observes the government-to-government relationship between the United States and each Tribe, and (3) involves the active participation of both Tribal and IHS representatives, including the OTSG. Because each Tribal situation is unique, a Tribe's successful transition into the TSGP, or expansion of their current program, requires focused discussions between the Federal and Tribal negotiation teams about the Tribe's specific health care concerns and plans.

The negotiations process has four major stages, including: (1) Planning, (2) pre-negotiations, (3) negotiations, and (4) post-negotiations. Title V of the ISDEAA requires that a Tribe or Tribal organization complete a planning phase to the satisfaction of the Tribe. The planning phase must include legal and budgetary research and internal Tribal government planning and organization preparation relating to the administration of health care programs. During pre-negotiations, the Tribal and Federal negotiation teams review and discuss issues identified during the planning phase. A draft Compact, Funding Agreement, and funding table are developed, typically by the Tribe, and distributed to both the Tribal and Federal negotiation teams. These draft documents are used as the basis for pre- and final negotiations. Pre-negotiations provide an opportunity for the Tribe and the IHS to identify and discuss issues directly related to the Tribe's Compact, Funding Agreement, and Tribal shares. At final negotiations, Tribal and Federal negotiation teams come together to determine and agree upon the terms and provisions of the Tribes Compact and Funding Agreement.

The Tribal negotiation team must include a Tribal leader from the governing body. This representative may be a Tribal leader or a designee, like the Tribal Health Director. The Tribal negotiation team may also include technical and program staff, legal counsel, and other consultants. The Federal negotiation team is led by the ALN and generally includes an OTSG Program Analyst and a member of the Office of the General Counsel. It may also include other IHS staff and subject matter experts as needed. The ALN is the only member of the Federal negotiation team with delegated authority to negotiate on behalf of the IHS Director.

Negotiations provide an opportunity for the Tribal and Federal negotiation teams to work together in good faith to enhance each Self-Governance agreement. Negotiations are not an allocation process; the negotiation teams to mutually review and discuss budget and program issues. As issues arise, both negotiation teams work through the issues to reach agreement on the final documents. After the negotiations are complete, the Compact and Funding Agreement are signed by the authorizing Tribal official and submitted to the ALN who then reviews the final package to ensure each document accurately reflects what was agreed to during negotiations. Once the ALN completes this review, the final package is submitted to the OTSG to be prepared for the IHS Director's signature. After the Compact and Funding Agreement have been signed by both parties, they become legally binding and enforceable agreements.

The receipt of a Negotiation Cooperative Agreement is not a prerequisite to enter the TSGP. A Tribe may use its own resources to develop and negotiate its Compact and Funding Agreement. Tribes that receive a Negotiation Cooperative Agreement are not obligated to participate in Title V and may choose to delay or decline participation or expansion in the TSGP.

Limited Competition Justification

There is limited competition under this announcement because the authorizing legislation restricts eligibility to Tribes that meet specific criteria (refer to Section III.1.Eligibility of this announcement). *See* 25 U.S.C. 458aaa–2(e); 42 CFR 137.24–26; *see* also 42 CFR 137.10. Tribes eligible to compete for the Negotiation Cooperative Agreements include: any Indian Tribe

that has not previously received a Negotiation Cooperative Agreement; any Indian Tribe that has previously received a Negotiation Cooperative Agreement but chose not to enter the TSGP; and those Indian Tribes that received a Negotiation Cooperative Agreement, entered the TSGP, and would like to plan for the assumption of new or expanded PSFAs.

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current Fiscal Year (FY) 2013 is approximately $240,000. Individual award amounts are anticipated to be $48,000.

Competing awards issued under this announcement are subject to the availability of funds. In the absence of funding, the IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately five awards will be issued under this program announcement.

Project Period

The project period is for 12 months and runs from August 30, 2013 to August 29, 2014.

Cooperative Agreement

In the HHS, a cooperative agreement is administered under the same policies as a grant. The funding agency (IHS) has substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated.

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

(1) Provide descriptions of PSFAs and associated funding at all organizational levels (Service Unit, Area, and Headquarters), including funding formulas and methodologies related to determining Tribal shares.

(2) Meet with Negotiation Cooperative Agreement recipient to provide program information and discuss methods currently used to manage and deliver health care.

(3) Identify and provide statutes, regulations, and policies that provide authority for administering IHS programs.

(4) Provide technical assistance on the IHS budget, Tribal shares, and other topics as needed.

B. Grantee Cooperative Agreement Award Activities

(1) Determine the PSFAs that will be negotiated into the Tribe's Compact and Funding Agreement and prepare to discuss each PSFA in comparison to the current level of services provided so that an informed decision can be made on new or expanded program assumption.

(2) Identify Tribal shares associated with the PSFAs that will be included in the Funding Agreement.

(3) Develop the terms and conditions that will be set forth in both the Compact and Funding Agreement to submit to the ALN prior to negotiations.

III. Eligibility Information

1. Eligibility

To be eligible for this Limited Competition Negotiation Cooperative Agreement under this announcement, an applicant must:

A. Be an ''Indian Tribe'' as defined in 25 U.S.C. 450b(e); a ''Tribal Organization'' as defined in 25 U.S.C. 450b(l); or an ''Inter-Tribal Consortium'' as defined at 42 CFR 137.10. However, Alaska Native Villages or Alaska Native Village Corporations are not eligible if they are located within the area served by an Alaska Native regional health entity already participating in the Alaska Trial Health Compact of 1998. *See* Consolidated Appropriations Act, 2012, Public Law 112–74. By statute, the Native Village of Eyak, Eastern Aleutian Tribes, and the Council for Athabascan Tribal Governments have also been deemed Alaska Native regional health entities. Those Alaska Tribes not represented by a Self-Governance Tribal consortium Funding Agreement within their area may still be considered to participate in the TSGP.

B. Submit a Tribal resolution from the appropriate governing body of each Indian Tribe to be served by the ISDEAA Compact authorizing the submission of the Negotiation Cooperative Agreement application. Tribal consortia applying for a TSGP Negotiation Cooperative Agreement shall submit Tribal Council resolutions from each Tribe in the consortium. Tribal resolutions can be attached to the electronic online application. Draft resolutions can be submitted with the application in lieu of an official signed resolution; however an official signed Tribal resolution must be received by the Division of Grants Management (DGM) prior to the Objective Review. If the DGM does not receive an official signed resolution by the Review Date listed under the Key Dates section on page one of this announcement, then the application shall be considered incomplete and ineligible for review or further consideration.

Official signed resolutions can be mailed to the DGM, Attn: Mr. John Hoffman, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852. Applicants submitting Tribal resolutions after or aside from the online electronic application submission must ensure that the information is received by the IHS, DGM. It is highly recommended that the documentation be sent by a delivery method that includes delivery confirmation and tracking. Please contact Mr. John Hoffman by telephone at (301) 443–5204 prior to the Review Date regarding submission questions.

C. Demonstrate, for three fiscal years, financial stability and financial management capability. The Indian Tribe must provide evidence that, for the three years prior to participation in Self-Governance, the Indian Tribe has had no significant and material audit exceptions in the required annual audit of the Indian Tribe's Self-Determination Contracts or Self-Governance Funding Agreements with any Federal agency. *See* 25 U.S.C. 458aaa–2; 42 CFR 137.15–23.

For Tribes or Tribal organizations that expended $300,000 or more ($500,000 for Fiscal Years ending after December 31, 2003) in Federal awards, the OTSG shall retrieve the audits directly from the Federal Audit Clearinghouse database.

For Tribes or Tribal organizations that expended less than $300,000 ($500,000 for Fiscal Years ending after December 31, 2003) in Federal awards, the Tribe or Tribal Organization must provide evidence of the program review correspondence from IHS or Bureau of Indian Affairs officials. *See* 42 CFR 137.21–23.

Please note that meeting the eligibility criteria for a Negotiation Cooperative Agreement does not mean that a Tribe or Tribal organization is eligible for participation in the IHS TSGP under Title V of the ISDEAA, 25 U.S.C. 458aaa–2; 42 CFR 137.15–23.

Note: Please refer to Section IV.2 (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the DGM of this decision.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_funding*

Additional information regarding the TSGP may also be found on the OTSG Web site at: *http://www.ihs.gov/selfgovernance*.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys, Grants Systems Coordinator, at (301) 443–2114 or by email at *Paul.Gettys@ihs.gov.*

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must be single spaced and not exceed ten pages).
  - Background information on the Tribe or Tribal organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal Resolution(s).
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all key personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart (optional).

Public Policy Requirements

All Federal-wide public policies apply to IHS grants with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate Word document that is no longer than ten pages and must: be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ x 11″ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming more familiar with the grantee's activities and accomplishments prior to this grant award. If the narrative exceeds the page limit, only the first ten pages will be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Part A: Program Information (4-Page Limitation)

Section 1: Needs

Introduction and Need for Assistance

Demonstrate that the Tribe has conducted previous Self-Governance planning activities by clearly stating the results of what was learned during the planning process. Explain how the Tribe has determined it has the knowledge and expertise to assume or expand PSFAs. Identify the need for assistance and how the Negotiation Cooperative Agreement would benefit the health activities the Tribe is preparing to assume or expand.

Part B: Program Planning and Evaluation (4-Page Limitation)

Section 1: Program Plans

Project Objective(s), Work Plan and Approach

State in measurable terms the objectives and appropriate activities to achieve the following Cooperative Agreement Recipient Award Activities:

(a) Determine the PSFAs that will be negotiated into the Tribe's Compact and Funding Agreement and prepare to discuss each PSFA in comparison to the current level of services provided so that an informed decision can be made on new or expanded program assumption.

(b) Identify Tribal shares associated with the PSFAs that will be included in the Funding Agreement.

(c) Develop the terms and conditions that will be set forth in both the Compact and Funding Agreement to submit to the ALN prior to negotiations.

Describe fully and clearly how the Tribe's proposal will result in an improved approach to managing the PSFAs to be assumed or expanded, including how the Tribe plans to demonstrate improved health services to the community. Include proposed timelines for negotiations.

Organizational Capabilities, Key Personnel and Qualifications

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

Section 2: Program Evaluation

Define the criteria to be used to evaluate planning activities. Describe fully and clearly the methodology that will be used to determine if the needs identified are being met and if the outcomes are being achieved.

Describe fully and clearly the improvements that will be made by the Tribe to manage the health care system and identify the anticipated or expected benefits for the Tribe.

Part C: Program Report (2-Page Limitation)

Section 1: Describe major accomplishments over the last 24 months. Please identify and describe significant health related accomplishments associated with the delivery of quality health services. This section should highlight major program achievements over the last 24 months.

Section 2: Describe major activities over the last 24 months. Please provide an overview of significant program activities associated with the delivery of quality health services over the last 24 months. This section should address significant program activities including those related to the accomplishments listed in the previous section.

B. *Budget Narrative:* This narrative must describe the budget requested and match the scope of work described the project narrative. The page limitation should not exceed five pages.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 12:00 a.m., midnight Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. The applicant will be notified by the DGM via email of this decision.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys, DGM Grants Systems Coordinator, by telephone at (301) 443–2114 or via email at *Paul.Gettys@ihs.gov.* Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically via Grants.gov, prior approval must be requested and obtained (see Section IV.6 below for additional information). The waiver must be documented in writing (emails are acceptable), *before* submitting a paper application. A copy of the written approval must be submitted along with the hardcopy that is mailed to the DGM. Once the waiver request has been approved, the applicant will receive a confirmation of approval and the mailing address to submit the application. Paper applications that are submitted without a waiver from the Acting Director of DGM will not be reviewed or considered further for funding. The applicant will be notified via email of this decision by the Grants Management Officer of DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Although IHS shall only award one Negotiation Cooperative Agreement per applicant per grant cycle, a Tribe may also apply for a Planning Cooperative Agreement within the same grant cycle. Both applications shall be reviewed separately for merit by the ORC based on the evaluation criteria.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If an applicant receives a waiver to submit paper application documents, the applicant must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov.* Please include a clear justification for the need to deviate from the standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this Funding Announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the OTSG will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a

DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform*, or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on subawards. Accordingly, all IHS grantees must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the ''Transparency Act.''

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration (CCR) and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov*.

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics*.

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (25 points)

Demonstrate that the Tribe has conducted previous Self-Governance planning activities by clearly stating the results of what was learned during the planning process. Explain how the Tribe has determined it has the knowledge and expertise to assume or expand PSFAs. Identify the need for assistance and how the Negotiation Cooperative Agreement would benefit the health activities the Tribe is preparing to assume or expand.

B. Project Objective(s), Work Plan and Approach (30 points)

State in measurable terms the objectives and appropriate activities to achieve the following Cooperative Agreement Recipient Award Activities:

(1) Determine the PSFAs that will be negotiated into the Tribe's Compact and Funding Agreement and prepare to discuss each PSFA in comparison to the current level of services provided so that an informed decision can be made on new or expanded program assumption.

(2) Identify Tribal shares associated with the PSFAs that will be included in the Funding Agreement.

(3) Develop the terms and conditions that will be set forth in both the Compact and Funding Agreement to submit to the ALN prior to negotiations.

Describe fully and clearly how the Tribe's proposal will result in an improved approach to managing the PSFAs to be assumed or expanded, including how the Tribe plans to demonstrate improved health services to the community. Include proposed timelines for negotiations.

C. Program Evaluation (10 points)

Define the criteria to be used to evaluate objectives associated with the project. Describe fully and clearly: (1) the methodology that will be used to determine if the needs identified are being met and if the outcomes identified are being achieved, and (2) the improvements that will be made by the Tribe to manage the health care system and identify the anticipated or expected benefits for the Tribe.

D. Organizational Capabilities, Key Personnel and Qualifications (20 points)

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

E. Categorical Budget and Budget Justification (15 points)

Submit a line-item budget with a narrative justification for all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative.

Additional Documents Can Be Uploaded as Appendix Items in Grants.gov.

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart(s) highlighting proposed project staff and their supervisors as well as other key contacts within the organization and key community contacts.
- Map of area identifying project location(s).
- Additional documents to support narrative (i.e. data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the minimum criteria shall be reviewed for merit by the ORC based on evaluation criteria. The ORC is composed of both Tribal and Federal reviewers appointed by the OTSG to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. Applicants will be notified by DGM, via email, to outline minor missing components (i.e., signature on the SF–424, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the

due date listed in the email of notification of missing documents required.

To obtain a minimum score the applicant must address all program requirements and provide all required documentation. If an applicant receives less than the minimum score, it will be considered to be ''Disapproved'' and will be informed via email by the OTSG of their application's deficiencies. A summary statement outlining the strengths and weaknesses of the application will be provided to each disapproved applicant. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424), of the application within 30 days of the completion of the Objective Review.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who: (1) received a score less than the recommended funding level for approval, 60 points; and (2) were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from OTSG outlining the weaknesses and strengths of the application within 30 days of the conclusion of the ORC. The OTSG will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved'' but were not funded due to lack of funds, will have their applications held by DGM for a period of one year after the official conclusion of the Objective Review. If additional funding becomes available during the course of FY 2013, the approved application may be re-considered by the OTSG for possible funding. The applicant will also receive an Executive Summary Statement from the OTSG within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR Part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR Part 74, Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- 2 CFR Part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87).
- 2 CFR Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm*. For questions regarding the indirect cost policy, please call the DGM staff at (301) 443–5204 to request assistance.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Reports must be submitted electronically via GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Division of Payment Management, HHS at: *http://www.dpm.psc.gov*. It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Subaward Reporting System (FSRS)

This award may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR Part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 subaward obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and 2) the primary awardee will have a $25,000 subaward obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the Grants Management Grants Policy Web site at: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics*.

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Anna Johnson, Program Official, Office of Tribal Self-Governance, 801 Thompson Avenue, Suite 240, Rockville, MD 20852, Phone: (301) 443–7821, Fax: (301) 443–4666, Email: *Anna.Johnson2@ihs.gov*, Web site: *www.ihs.gov/selfgovernance*.
2. Questions on grants management and fiscal matters may be directed to: John Hoffman, Grants Management Specialist, Division of Grants Management, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: (301) 443–5204, Fax: (301) 443–9602, Email: *John.Hoffman@ihs.gov*.
3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: 301–443–2114; or the DGM main line 301–443–5204, Fax: 301–443–9602, E-Mail: *Paul.Gettys@ihs.gov*.

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: June 13, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2013–14932 Filed 6–21–13; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Tribal Self-Governance Program Planning Cooperative Agreement

Announcement Type: New—Limited Competition.

Funding Announcement Number: HHS–2013–IHS–TSGP–0001.

Catalog of Federal Domestic Assistance Number: 93.444.

Key Dates

Application Deadline Date: July 31, 2013.

Review Date: August 12, 2013.

Earliest Anticipated Start Date: August 30, 2013.

Signed Tribal Resolutions Due Date: July 31, 2013.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Tribal Self-Governance (OTSG) is accepting limited competition Planning Cooperative Agreement applications for the Tribal Self-Governance Program (TSGP). This program is authorized under Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. § 458aaa-2(e). This program is described in the Catalog of Federal Domestic Assistance (CFDA), available at *https://www.cfda.gov/,* under 93.444.

Background

The TSGP is more than an IHS program; it is an expression of the government-to-government relationship between the United States and Indian Tribes. Through the TSGP, Tribes negotiate with the IHS to assume IHS Programs, Services, Functions and Activities (PSFAs), or portions thereof, which enables Tribes to manage and tailor health care programs in a manner that best fits the needs of their communities.

Participation in the TSGP is one of three ways that Tribes can choose to obtain health care from the Federal Government for their members. Specifically, Tribes can choose to: (1) Receive health care services directly from the IHS, (2) contract with the IHS to administer individual PSFAs the IHS would otherwise provide (referred to as Title I Self-Determination Contracting), or (3) compact with the IHS to assume control over health care PSFAs the IHS would otherwise provide (referred to as Title V Self-Governance Compacting or the TSGP). These options are not exclusive; Tribes may choose to combine them based on their individual needs and circumstances. Participation in the TSGP affords Tribes the most flexibility to tailor health care PSFAs to the needs of their communities.

The TSGP is a Tribally-driven initiative, and strong Federal-Tribal partnerships are essential to the program's success. The IHS established the OTSG to implement Tribal Self-Governance authorities within the IHS. The OTSG: (1) Serves as the primary liaison and advocate for Tribes participating in the TSGP, (2) develops, directs, and implements Tribal Self-Governance policies and procedures, (3) provides information and technical assistance to Self-Governance Tribes, and (4) advises the IHS Director on IHS compliance with TSGP policies, regulations, and guidelines. Each IHS Area has an Agency Lead Negotiator (ALN) that negotiates Self-Governance instruments (Compacts and Funding Agreements) on behalf of the IHS Director. A Tribe should contact the respective ALN to begin the Self-Governance planning process or discuss methods to expand current PSFAs. The ALN shall provide an overview of the TSGP and provide technical assistance as the Tribe explores the option of

participating in or expanding current PSFAs within the TSGP.

Purpose

The purpose of this Planning Cooperative Agreement is to provide resources to Tribes interested in entering the TSGP and to existing Self-Governance Tribes interested in expanding their PSFAs. Title V of the ISDEAA requires a Tribe or Tribal organization to complete a planning phase to the satisfaction of the Tribe. The planning phase must include legal and budgetary research and internal Tribal government planning and organization preparation relating to the administration of health care programs. *See* 25 U.S.C. 458aaa-2(d).

The planning phase helps Tribes to make informed decisions about which PSFAs to assume and what organizational changes or modifications are necessary to support those PSFAs. A thorough planning phase improves timeliness and efficiency of negotiations. The planning phase also helps to identify issues in advance and ensures that the Tribe is fully prepared for the transfer of IHS PSFAs to the Tribal health program.

The receipt of a Planning Cooperative Agreement is not a prerequisite to enter the TSGP. A Tribe may use its own resources to meet the planning requirement. Tribes that receive a Planning Cooperative Agreement are not obligated to participate in the TSGP and may choose to delay or decline participation or expansion in the TSGP based on their planning activities.

Limited Competition Justification

There is limited competition under this announcement because the authorizing legislation restricts eligibility to Tribes that meet specific criteria (refer to Section III.1.Eligibility of this announcement). *See* 25 U.S.C. 458aaa-2(e); 42 CFR 137.24–26; *see* also 42 CFR 137.10. Tribes eligible to compete for the Planning Cooperative Agreements include: any Indian Tribe that has not previously received a Planning Cooperative Agreement; any Indian Tribe that has previously received a Planning Cooperative Agreement but chose not to enter the TSGP; and those Indian Tribes that received a Planning Cooperative Agreement, entered the TSGP, and would like to plan for the assumption of new or expanded PSFAs.

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current Fiscal Year (FY) 2013 is approximately $600,000. Individual award amounts are anticipated to be $120,000. Competing awards issued under this announcement are subject to the availability of funds. In the absence of funding, the IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately five awards will be issued under this program announcement.

Project Period

The project period is for 12 months and runs from August 30, 2013 to August 29, 2014.

Cooperative Agreement

In the HHS, a cooperative agreement is administered under the same policies as a grant. The funding agency (IHS) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

(1) Provide descriptions of PSFAs and associated funding at all organizational levels (Service Unit, Area, and Headquarters), including funding formulas and methodologies related to determining Tribal shares.

(2) Meet with Planning Cooperative Agreement recipient to provide program information and discuss methods currently used to manage and deliver health care.

(3) Identify and provide statutes, regulations, and policies that provide authority for administering IHS programs.

(4) Provide technical assistance on the IHS budget, Tribal shares, and other topics as needed.

B. Grantee Cooperative Agreement Award Activities

(1) Research and analyze the complex IHS budget to gain a thorough understanding of funding distribution at all organizational levels and to determine which PSFAs the Tribe may elect to assume or expand.

(2) Establish a process by which Tribes may approach the IHS to identify PSFAs and associated funding that may be incorporated into their current programs.

(3) Determine the Tribe's share of each PSFA and evaluate the current level of health care services being provided to make an informed decision on new or expanded program assumption(s).

III. Eligibility Information

1. Eligibility

To be eligible for this Limited Competition Planning Cooperative Agreement under this announcement, an applicant must:

A. Be an ''Indian Tribe'' as defined in 25 U.S.C. 450b(e); a ''Tribal Organization'' as defined in 25 U.S.C. 450b(l); or an ''Inter-Tribal Consortium'' as defined at 42 CFR 137.10. However, Alaska Native Villages or Alaska Native Village Corporations are not eligible if they are located within the area served by an Alaska Native regional health entity already participating in the Alaska Trial Health Compact of 1998. *See* Consolidated Appropriations Act, 2012, Public Law 112–74. By statute, the Native Village of Eyak, Eastern Aleutian Tribes, and the Council for Athabascan Tribal Governments have also been deemed Alaska Native regional health entities. Those Alaska Tribes not represented by a Self-Governance Tribal consortium Funding Agreement within their area may still be considered to participate in the TSGP.

B. Submit a Tribal resolution from the appropriate governing body of each Indian Tribe to be served by the ISDEAA Compact authorizing the submission of the Planning Cooperative Agreement application. Tribal consortia applying for a TSGP Planning Cooperative Agreement shall submit Tribal Council resolutions from each Tribe in the consortium. Tribal resolutions can be attached to the electronic online application. Draft resolutions can be submitted with the application in lieu of an official signed resolution; however an official signed Tribal resolution must be received by the Division of Grants Management (DGM) prior to the Objective Review. If the DGM does not receive an official signed resolution by the Review Date listed under the Key Dates section on page one of this announcement, then the application shall be considered incomplete and ineligible for review or further consideration.

Official signed resolutions can be mailed to the DGM, Attn: Mr. John Hoffman, 801 Thompson Avenue, TMP

Suite 360, Rockville, MD 20852. Applicants submitting Tribal resolutions after or aside from the online electronic application submission must ensure that the information is received by the IHS, DGM. It is highly recommended that the documentation be sent by a delivery method that includes delivery confirmation and tracking. Please contact Mr. John Hoffman by telephone at (301) 443–5204 prior to the Review Date regarding submission questions.

C. Demonstrate, for three fiscal years, financial stability and financial management capability. The Indian Tribe must provide evidence that, for the three years prior to participation in Self-Governance, the Indian Tribe has had no significant and material audit exceptions in the required annual audit of the Indian Tribe's Self-Determination Contracts or Self-Governance Funding Agreements with any Federal agency. *See* 25 U.S.C. 458aaa-2; 42 CFR 137.15–23.

For Tribes or Tribal organizations that expended $300,000 or more ($500,000 for FYs ending after December 31, 2003) in Federal awards, the OTSG shall retrieve the audits directly from the Federal Audit Clearinghouse database.

For Tribes or Tribal organizations that expended less than $300,000 ($500,000 for FYs ending after December 31, 2003) in Federal awards, the Tribe or Tribal organization must provide evidence of the program review correspondence from IHS or Bureau of Indian Affairs officials. *See* 42 CFR 137.21–23.

Please note that meeting the eligibility criteria for a Planning Cooperative Agreement does not mean that a Tribe or Tribal organization is eligible for participation in the IHS TSGP under Title V of the ISDEAA, 25 U.S.C. 458aaa-2; 42 CFR 137.15–23.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the DGM of this decision.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_funding.*

Additional information regarding the TSGP may also be found on the OTSG Web site at: *http://www.ihs.gov/selfgovernance.*

Questions regarding the electronic application process may be directed to Mr. Paul Gettys, Grants Systems Coordinator, at (301) 443–2114, or by email at Paul.Gettys@ihs.gov.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must be single spaced and not exceed ten pages).
  - Background information on the Tribe or Tribal organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal Resolution(s).
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all key personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart (optional).

Public Policy Requirements

All Federal-wide public policies apply to IHS grants with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate Word document that is no longer than ten pages and must: be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8–1/2'' x 11'' paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming more familiar with the grantee's activities and accomplishments prior to this grant award. If the narrative exceeds the page limit, only the first ten pages will be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Part A: Program Information (4-page limitation)

Section 1: Needs

Introduction and Need for Assistance

Describe the Tribe's current health program activities, how long it has been operating, what programs or services are currently being provided and if the applicant is currently administering any ISDEAA Title I Self-Determination Contracts or Title V Self-Governance Compacts. Identify the need for assistance and how the Planning Cooperative Agreement would benefit the health activities the Tribe is currently administering.

Part B: Program Planning and Evaluation (4-page limitation)

Section 1: Program Plans

Project Objective(s), Work Plan and Approach

State in measurable terms the objectives and appropriate activities to achieve the following Cooperative Agreement Recipient Award Activities:

(a) Research and analyze the complex IHS budget to gain a thorough understanding of funding distribution at

all organizational levels and to determine which PSFAs the Tribe may elect to assume or expand.

(b) Establish a process to identify PSFAs and associated funding that may be incorporated into current programs.

(c) Determine the Tribe's share of each PSFA and evaluate the current level of health care services being provided to make an informed decision on new program assumption(s).

Describe how the objectives are consistent with the purpose of the program and the needs of the people to be served and how they will be achieved within the proposed time frame. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

Organizational Capabilities, Key Personnel and Qualifications

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

Section 2: Program Evaluation

Define the criteria to be used to evaluate planning activities. Describe fully and clearly the methodology that will be used to determine if the needs identified are being met and if the outcomes are being achieved.

This section must address the following questions:

(a) Are the goals and objectives measurable and consistent with the purpose of the program and the needs of the people to be served?

(b) Are they achievable within the proposed time frame?

Part C: Program Report (2-page limitation)

Section 1: Describe major accomplishments over the last 24 months.

Please identify and describe significant health related accomplishments associated with the delivery of quality health services. This section should highlight major program achievements over the last 24 months.

Section 2: Describe major activities over the last 24 months.

Please provide an overview of significant program activities associated with the delivery of quality health services over the last 24 months. This section should address significant program activities including those related to the accomplishments listed in the previous section.

B. *Budget Narrative:* This narrative must describe the budget requested and match the scope of work described in the project narrative. The page limitation should not exceed five pages.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 12:00 a.m., midnight Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. The applicant will be notified by the DGM via email of this decision.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys, DGM Grants Systems Coordinator, by telephone at (301) 443–2114 or via email at *Paul.Gettys@ihs.gov.* Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically via Grants.gov, prior approval must be requested and obtained (see Section IV.6 below for additional information). The waiver must be documented in writing (emails are acceptable), *before* submitting a paper application. A copy of the written approval must be submitted along with the hardcopy that is mailed to the DGM. Once the waiver request has been approved, the applicant will receive a confirmation of approval and the mailing address to submit the application. Paper applications that are submitted without a waiver from the Acting Director of DGM will not be reviewed or considered further for funding. The applicant will be notified via email of this decision by the Grants Management Officer of DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Although IHS shall only award one Planning Cooperative Agreement per applicant per grant cycle, a Tribe may also apply for a Negotiation Cooperative Agreement within the same grant cycle. Both applications shall be reviewed separately for merit by the ORC based on the evaluation criteria.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If an applicant receives a waiver to submit paper application documents, the applicant must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to

address questions 24 hours a day, 7 days a week (except on Federal holidays).

- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov.* Please include a clear justification for the need to deviate from the standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this Funding Announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the OTSG will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on subawards. Accordingly, all IHS grantees must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the ''Transparency Act.''

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration (CCR) and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (25 Points)

Describe the Tribe's current health program activities, how long it has been operating, what programs or services are currently being provided and if the applicant is currently administering any ISDEAA Title I Self-Determination Contracts or Title V Self-Governance Compacts. Identify the need for assistance and how the Planning Cooperative Agreement would benefit the health activities the Tribe is currently administering.

B. Project Objective(s), Work Plan and Approach (30 Points)

State in measurable terms the objectives and appropriate activities to achieve the following Cooperative Agreement Recipient Award Activities:

(1) Research and analyze the complex IHS budget to gain a thorough understanding of funding distribution at all organizational levels and to determine which PSFAs the Tribe may elect to assume or expand.

(2) Establish a process to identify PSFAs and associated funding that may be incorporated into current programs.

(3) Determine the Tribe's share of each PSFA and evaluate the current level of health care services being provided to make an informed decision on new program assumption(s).

Describe how the objectives are consistent with the purpose of the program and the needs of the people to be served and how they will be achieved within the proposed time frame. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

C. Program Evaluation (10 Points)

Define the criteria to be used to evaluate planning activities. Describe fully and clearly the methodologies that will be used to determine if the needs identified are being met and if the outcomes identified are being achieved. Are the goals and objectives measurable and consistent with the purpose of the program and the needs of the people to be served? Are they achievable within the proposed time frame?

D. Organizational Capabilities, Key Personnel and Qualifications (20 Points)

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

E. Categorical Budget and Budget Justification (15 Points)

Submit a line-item budget with a narrative justification for all

expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative.

Additional documents can be uploaded as Appendix Items in Grants.gov.

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart(s) highlighting proposed project staff and their supervisors as well as other key contacts within the organization and key community contacts.
- Map of area identifying project location(s).
- Additional documents to support narrative (i.e. data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the minimum criteria shall be reviewed for merit by the ORC based on evaluation criteria. The ORC is composed of both Tribal and Federal reviewers appointed by the OTSG to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. Applicants will be notified by DGM, via email, to outline minor missing components (i.e., signature on the SF–424, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score the applicant must address all program requirements and provide all required documentation. If an applicant receives less than the minimum score, it will be considered to be ''Disapproved'' and will be informed via email by the OTSG of their application's deficiencies. A summary statement outlining the strengths and weaknesses of the application will be provided to each disapproved applicant. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424), of the application within 30 days of the completion of the Objective Review.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who: (1) Received a score less than the recommended funding level for approval, 60 points; and (2) were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from OTSG outlining the weaknesses and strengths of the application within 30 days of the conclusion of the ORC. The OTSG will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved'' but were not funded due to lack of funds, will have their applications held by DGM for a period of one year after the official conclusion of the Objective Review. If additional funding becomes available during the course of FY 2013, the approved application may be re-considered by the OTSG for possible funding. The applicant will also receive an Executive Summary Statement from the OTSG within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR part 74, Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- 2 CFR Part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87).
- 2 CFR Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm.* For questions regarding the indirect cost policy, please call the DGM staff at (301) 443–5204 to request assistance.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or

other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Reports must be submitted electronically via GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Division of Payment Management, HHS at: *http://www.dpm.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Subaward Reporting System (FSRS)

This award may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR Part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 subaward obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will have a $25,000 subaward obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the Grants Management Grants Policy Web site at: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics.*

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Anna Johnson, Program Official, Office of Tribal Self-Governance, 801 Thompson Avenue, Suite 240, Rockville, MD 20852, Phone: (301) 443–7821, Fax: (301) 443–4666, Email: *Anna.Johnson2@ihs.gov,* Web site: *www.ihs.gov/selfgovernance.*

2. Questions on grants management and fiscal matters may be directed to: John Hoffman, Grants Management Specialist, Division of Grants Management, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: (301) 443–5204, Fax: (301) 443–9602, Email: *John.Hoffman@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: 301–443–2114; or the DGM main line 301–443–5204, Fax: 301–443–9602, E-Mail: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: June 16, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2013–14931 Filed 6–21–13; 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; Federal Interagency Traumatic Brain Injury Research (FITBIR) Informatics System Data Access Request

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act (PRA) of 1995, the National Institute of Neurological Disorders and Stroke (NINDS), the National Institutes of Health (NIH) 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 22, 2013, pages 12334–12335 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Neurological Disorders and Stroke, 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 request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Rebecca L. Frederick, Office of Science Policy and Planning, OSPP, NINDS, NIH, 31 Center Drive, Building 31, Room 8A03, Bethesda, MD 20892; call 301–496–9271; or Email your request, including your address to: *rebecca.frederick@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Federal Interagency Traumatic Brain Injury Research (FITBIR) Informatics System Data Access Request. 0925–NEW. National Institute of Neurological Disorders and Stroke.

Need and Use of Information Collection: The FITBIR Informatics System Data Access Request form is necessary for ''Recipient'' Principal Investigators and their organization or corporations with approved assurance from the DHHS Office of Human Research Protections to access data or images from the FITBIR Informatics System for research purposes. The primary use of this information is to document, track, monitor, and evaluate the use of the FITBIR datasets, as well as to notify interested recipients of updates, corrections or other changes to the database.

There are two scenarios for completing the form. The first is where the Principal Investigator (PI) completes the entire FITBIR Informatics System Data Access Request form, and the second where the PI has the Research Assistant begins filling out the form and PI provides the final reviews and signs it.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 63.

ESTIMATED ANNUAL BURDEN HOURS

Form	Number of respondents	Frequency of response	Average time per response (in hours)	Annual hour burden
FITBIR Informatics System Data Access Request	40	1	95/60	63
Total				63

Dated: June 14, 2013.

Caroline Lewis,

Executive Officer, National Institute of Neurological Disorders and Stroke, NIH.

[FR Doc. 2013–15014 Filed 6–21–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed 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 materials, 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 Drug Abuse Special Emphasis Panel; NIH Summer Research Experience Programs (R25).

Date: July 19, 2013.

Time: 11:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 18, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14944 Filed 6–21–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of 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 Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict applications—Epidemiology, Prevention (1).

Date: July 19, 2013.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch EPRB, NIAAA, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.273, Alcohol Research Programs; National Institutes of Health, HHS)

Dated: June 18, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14941 Filed 6–21–13; 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: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Conference Grant Review.

Date: July 16, 2013.

*Time:*9:00 a.m. to 4:00 p.m.

*Agenda:*To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–435–0725, *kristen.page@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: June 18, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14939 Filed 6–21–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of 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 Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict Applications—Metabolism and Health Effects.

Date: July 22, 2013.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch EPRB, NIAAA, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.273, Alcohol Research Programs; National Institutes of Health, HHS)

Dated: June 18, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14942 Filed 6–21–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; 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 Center for Complementary and Alternative Medicine Special Emphasis Panel Omics Type 3s.

Date: July 10, 2013.

Time: 3:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Peter Kozel, Ph.D., Scientific Review Officer, NCCAM, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–5475, 301–496–8004, *kozelp@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: June 18, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14938 Filed 6–21–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of 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 Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict Applications—Treatment and Prevention (2).

Date: July 24, 2013.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch EPRB, NIAAA, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.273, Alcohol Research Programs; National Institutes of Health, HHS)

Dated: June 18, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14943 Filed 6–21–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Basic Research on Human Embryonic Stem Cells.

Date: July 16–17, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Immunology.

Date: July 18–19, 2013.

Time: 8:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Avenue Hotel Chicago, 160 E. Huron Street, Chicago, IL 60611.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–13–002: Planning Grants for the NIH National Research Mentoring Network (NRMN) P20.

Date: July 22, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; NeuroAIDS and other End-Organ Diseases Study Section.

Date: July 22, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington DC, 923 16th Street NW., Washington, DC 20006.

Contact Person: Eduardo A Montalvo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cardiovascular Sciences.

Date: July 22, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 18, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14937 Filed 6–21–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT oF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of 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 Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict Applications—Neurosciences.

Date: July 15, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, 5635 Fishers Lane Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch EPRB, NIAAA, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852 (301) 451–2067 *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.273, Alcohol Research Programs; National Institutes of Health, HHS)

Dated: June 18, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14940 Filed 6–21–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: 2014 National Survey on Drug Use and Health (OMB No. 0930–0110)—Revision

The National Survey on Drug Use and Health (NSDUH) is a survey of the U.S. civilian, non-institutionalized population aged 12 years old or older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, the Office of National Drug Control Policy (ONDCP), Federal government agencies, and other organizations and researchers to

establish policy, direct program activities, and better allocate resources.

The introduction of a new sample design is planned for the 2014 NSDUH. In addition to moving towards a proportional allocation by state, the 2014 sample design places more sample in the 26 or older age groups than in previous designs to more accurately estimate drug use and related mental health measures among the aging drug use population. An additional stage of selection was also added to aid in the possible adoption of address-based sampling in the future. The questionnaire content for the 2014 NSDUH will remain identical to what was administered in 2013, with the exception of updates to year references and the State-specific Medicaid, Children's Health Insurance Program (CHIP), and Temporary Assistance for Needy Families (TANF) program names. Making minimal changes to the instrument will allow SAMHSA's Center for Behavioral Health Statistics and Quality (CBHSQ) to isolate the effects of the revised sample design in the 2014 NSDUH and to prepare for the 2015 NSDUH redesign.

As with all NSDUH/NHSDA [1] surveys conducted since 1999, the sample size of the survey for 2014 will be sufficient to permit prevalence estimates for each of the fifty States and the District of Columbia. The total annual burden estimate is shown in Table 1.

TABLE 1—ANNUALIZED ESTIMATED RESPONDENT BURDEN FOR 2014 NSDUH

Instrument	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
Household Screening	119,181	1	119,181	0.083	9,892
Interview	67,507	1	67,507	1.000	67,507
Screening Verification	3,575	1	3,575	0.067	240
Interview Verification	10,126	1	10,126	0.067	678
Total	119,181		119,181		78,317

Written comments and recommendations concerning the proposed information collection should be sent by July 24, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov*. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–14901 Filed 6–21–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Confidentiality of Alcohol and Drug Abuse Patient Records—(OMB No. 0930–0092)—Revision

Statute (42 U.S.C. 290dd–2) and regulations (42 CFR Part 2) require federally conducted, regulated, or directly or indirectly assisted alcohol and drug abuse programs to keep alcohol and drug abuse patient records confidential. Information requirements are (1) written disclosure to patients about Federal laws and regulations that protect the confidentiality of each patient, and (2) documenting ''medical personnel'' status of recipients of a disclosure to meet a medical emergency. Annual burden estimates for these requirements are summarized in the table below:

ANNUALIZED BURDEN ESTIMATES

	Annual number of respondents[1]	Responses per respondent	Total responses	Hours per response	Total hour burden
Disclosure					
42 CFR 2.22	11,724	166	[2] 1,994,632	.20	398,872
Recordkeeping					
42 CFR 2.51	11,724	2	23,448	.167	3,916

[1] Prior to 2002, the NSDUH was referred to as the National Household Survey on Drug Abuse (NHSDA).

ANNUALIZED BURDEN ESTIMATES—Continued

	Annual number of respondents[1]	Responses per respondent	Total responses	Hours per response	Total hour burden
Total	11,724		2,017,810		402,788

[1] The number of publicly funded alcohol and drug facilities from SAMHSA's 2011 National Survey of Substance Abuse Treatment Services (N–SSATS).
[2] The average number of annual treatment admissions from SAMHSA's 2008–2010 Treatment Episode Data Set (TEDS).

Written comments and recommendations concerning the proposed information collection should be sent by July 24, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–14900 Filed 6–21–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning July 1, 2013, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: *Effective Date:* July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2013–10, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2013, and ending on September 30, 2013. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning October 1, 2013, and ending December 31, 2013.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	*Ending date*	*Underpayments* (percent)	*Overpayments* (percent)	*Corporate Overpayments* (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	

Beginning date	*Ending date*	*Underpayments* (percent)	*Overpayments* (percent)	*Corporate Overpayments* (Eff. 1–1–99) (percent)
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	093013	3	3	2

Dated: June 19, 2013.

Thomas S. Winkowski,

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

[FR Doc. 2013–15059 Filed 6–21–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2013–N135; FXES11130800000–134–FF08E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing these permits.

DATES: Comments on these permit applications must be received on or before July 24, 2013.

ADDRESSES: Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

Applicant

Permit No. TE–092622

Applicant: Gabriel A. Valdes, Flagstaff, Arizona

The applicant requests a permit renewal to take (harass by survey and

locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and to take (locate and monitor nests) the least Bell's vireo (*Vireo belli pusillus*) in conjunction with survey and population monitoring activities throughout the range of each species in California and Nevada for the purpose of enhancing the species' survival.

Permit No. TE–819475

Applicant: Bureau of Reclamation, Denver, Colorado

The applicant requests a permit renewal to take (harass by survey and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey and population monitoring activities throughout the range of the species in Nevada and California for the purpose of enhancing the species' survival.

Permit No. TE–05613B

Applicant: Garth P. Alling, Zephyr Cove, Nevada

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey activities in Lincoln County, Nevada, for the purpose of enhancing the species' survival.

Permit No. TE–213314

Applicant: Morro Coast Audubon Society, Morro Bay, California

The applicant requests an amendment to a permit to take (locate, capture, handle, and relocate) the Morro shoulderband snail (*Helminthoglypta walkeriana*) in conjunction with population monitoring, relocation, and habitat enhancement activities in San Luis Obispo County, California, for the purpose of enhancing the species' survival.

Permit No. TE–053085

Applicant: Bureau of Reclamation, Boulder City, Nevada

The applicant requests an amendment to a permit to take (expand the range of authorized activities to capture, seine, electrofish, PIT tag, collect vouchers, and preserve larvae) the Razorback sucker (*Xyrauchen texanus*) and the bonytail chub (*Gila elegans*) in conjunction with surveys and scientific studies throughout the range of each species in California and Nevada for the purpose of enhancing the species' survival.

Permit No. TE–05661B

Applicant: Jennifer D. Gold, Santa Barbara, California

The applicant requests a permit to take (survey, locate, monitor nests, and erect fencing and exclosures) the California least tern (*Sternula antillarum browni)* (*Sterna a. b.*) in conjunction with survey activities at Ormond Beach and wetlands in Ventura County, California, for the purpose of enhancing the species' survival.

Permit No. TE–039460

Applicant: Thomas Olson Biological Consulting, Lompoc, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, collect biological samples and voucher specimens, and release) the California tiger salamander (Santa Barbara County DPS) (*Ambystoma californiense*) in conjunction with surveys, population monitoring, and research activities in Santa Barbara County, California, for the purpose of enhancing the species' survival.

Permit No. TE–091012

Applicant: Molly E. Goble, San Ramon, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County DPS and Sonoma County DPS) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–06131B

Applicant: Kimberly S. Romich, Yucaipa, California

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and to take (survey, capture, handle, and release) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with survey activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE–06145B

Applicant: Alicia Hill, Encinitas, California

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–06164B

Applicant: Megan A. Kelso, Palo Alto, California

The applicant requests a permit to take (harass) the California clapper rail (*Rallus longirostris obsoletus*) and Pacific pocket mouse (*Perognathus longimembris pacificus*) in conjunction with marsh plant research activities in Sonoma, Napa, Solano, Santa Clara, and Alameda Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–06197B

Applicant: Ian C. Cain, Santee, California

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–050122

Applicant: California Department of Fish and Wildlife, Bishop, California

The applicant requests a permit renewal to take (survey, capture, handle, radio collar, tag, translocate, collect biological samples, and release) the bighorn sheep (*Ovis canadensis sierrae*) in conjunction with surveys and ecological research throughout the range of the subspecies in California for the purpose of enhancing the subspecies' survival.

Permit No. TE–115373

Applicant: Darin A. Busby, San Diego, California

The applicant requests a permit renewal to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and to take (capture, collect, and collect vouchers) the conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE–084254

Applicant: Ellen K. Schafhauser, Weldon, California

The applicant requests a permit renewal to take (survey by pursuit) the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) in conjunction with survey activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

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.

Larry Rabin,

Regional Director, Acting, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2013–14990 Filed 6–21–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES93000–L51100000–GA0000–241AOO, KYES–53865]

Notice of Availability of the Environmental Assessment and Notice of Public Hearing Federal Coal Lease Application KYES–53865, Kentucky

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability and Notice of Public Hearing.

SUMMARY: In accordance with Federal coal management regulations, the Bledsoe Coal Corporation, Federal Coal Lease-By-Application (LBA) Environmental Assessment (EA) is available for public review and comment. The United States Department of the Interior, Bureau of Land Management (BLM) Southeastern States Field Office will hold a public hearing to receive comments on the EA, Fair Market Value (FMV), and Maximum Economic Recovery (MER) of the coal resources for the Bledsoe/Beechfork Mine LBA Tract, serial number KYES–53865.

DATES: The public hearing will be held on June 25, 2013, at 6 p.m. Written comments should be received no later than July 25, 2013.

ADDRESSES: The public hearing will be held at the Town Hall, 15 South Center Street, Hyden, Kentucky. Copies of the EA and the unsigned Finding of No Significant Impact (FONSI) are available at the Southeastern States Field Office. The hearing will be advertised in the *Leslie County News* located in Hyden, Kentucky. Written comments on the EA, FMV, and MER should be addressed to Michael W. Glasson, BLM Eastern States, Division of Lands and Minerals, Mail Stop 4238, 20 M Street SE., Washington, DC 20003. Comments may be emailed to *mglasson@blm.gov*. Please note ''Coal Lease By Application KYES–53865'' in the subject line for all emails or mailing envelops.

FOR FURTHER INFORMATION CONTACT: Michael W. Glasson, at 202–912–7723, email: *mglasson@blm.gov*. Information about the EA and the unsigned Decision Notice/Finding of No Significant Impact can be obtained by contacting Bruce Dawson, Southeastern States Field Office Manager, phone 601–977–5450. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The EA addresses the cultural, socioeconomic, environmental, and cumulative impacts that would likely result from leasing these coal lands. The lands included in the Bledsoe/Beechfork Mine LBA Tract are located in Leslie County, Kentucky, approximately 10 miles south of Hyden, Kentucky, on National Forest Service lands, described as follows: A certain tract or parcel of land located in Leslie and Harlan Counties, Kentucky, and situated on Beech Fork and Caywood Creek thereof, and Upper Double Branch and Trace Branch, both waters of Shells Laurel of Greasy Fork, and more particularly described as follows: Beginning at a marked sycamore standing on the northeast edge of Beech Fork, about 400′ below the mouth of Caywood Creek, same being the 2nd corner of the George Hoskins 100 Acre Grant No. 59799. Thence running with the first line of said Hoskins grant reversed N 27°31′04″ E a distance of 296.00 feet to a stake in said line and at its point of intersection with the 9th line of the Jacob Gross 100 Acre Grant No. 59793. Thence running with the said 9th line of said Gross grant reversed N 72°57′26″ W a distance of 15.17 feet to a stake in said line and at its point of intersection with the 1st line of the Edmond Burkhart 100 Acre Grant No. 57368. Thence running with the same 1st line of said Burkhart grant N 22°03′ 37″ E a distance of 687.53 feet crossing the spur between Beech Fork and Fern Branch thereof to a marked forked beech, witnessed by a chestnut oak and a white oak marked as bearing trees, the 2nd corner thereto. Thence running with the 2nd course thereof N 50°39′17″ E a distance of 881.17 feet to a stake, witnessed by a beech and hickory marked as bearing trees, the 3rd corner thereto. Thence running with the third line thereof N 08°33′57″ E a distance of 1343.35 feet to a large marked chestnut, witnessed by a white oak, chestnut, and black gum marked as bearing trees, the 4th corner thereto. Thence running with the 4th course, N 38°37′46″ E a distance of 1280.13 feet to a stake in said line and at its point of intersection with the 4th line of the aforesaid Jacob Gross 100 Acre Grant No. 59793. Thence running with the 4th course there of S 80°22′06″ E a distance of 236.97 feet to a stake on top of the divide between Fern Branch and the left hand fork of Caywood, the 4th corner thereto. Thence running up and with the crest of said divide as it meanders S 01°19′32″ E a distance of 6204.99 feet to a drilled hole in the top of an oval shaped rock on the east bank of the original channel of Beech Fork about 175 feet below the mouth of Coal Bank Hollow. Thence S 76°52′55″ W a distance of 217.84 feet crossing Highway No. 421 to a stake in the center of the present channel of Beech Fork. Thence running down the said Beech Fork and with its center thereof as it meanders N 51°47′22″ W a distance of 116.98′ to a cross on a rock. Thence N 72°27′07″ W a distance of 243.24 feet to a cross on a rock. Thence N 49°12′20″ W a distance of 122.27 feet to a cross on a rock in the mouth of Mill Hollow. Thence N 10° 12′08″ E a distance of 134.53 feet to a cross on a rock. Thence N 26°31′23″ W a distance of 463.49 feet to a cross on a rock. Thence N 42°27′10″ W a distance of 249.67 feet to a cross on a rock. Thence N 06°56′45″ E a distance of 252.81 feet to a cross on a rock. Thence N 13°40′23″ W a distance of 530.41 feet to a cross on a rock. Thence N 28°51′32″ W a distance of 309.98 feet to a stake in the mouth of Caywood Branch. Thence N 59d 12′23″ W a

distance of 431.44 feet to a stake. Thence N 81°46′41″ W a distance of 209.69 feet to a cross on a rock. Thence N 60°52′22″ W a distance of 411.96′ to a stake. Thence N 78°41′51″ W a distance of 280.93 feet to the point of beginning. Being the western portion of the United States Forestry Service Tract No. 3094Bd, and being the remainder of land not included in the Caywood Branch Coal Lease, TVA Tract No. XEKCR–39 L (Parcel NO. 1) and having an area containing 174.36 acres, more or less.

Bledsoe Coal Corporation requested the Bledsoe/Beechfork Mine LBA Tract to mine the underground coal reserves as an extension from their existing Beechfork Mine. The tract has one minable coal bed, the Fire Clay bed. The minable portions of the coal bed in this area are around 2.5–3.0 feet in thickness. The tract contains more than 400,000 tons of recoverable high-volatile 'A' bituminous coal. The coal quality in the Fire Clay coal bed on an ''as received basis'' is as follows: 12,900 Btu/lb., 6.5 percent moisture, 7.2 percent ash, 34.6 percent volatile matter, 51.5 percent fixed carbon and 1.02 percent sulfur. The public is invited to the meeting to make public and/or written comments on the environmental implications of leasing the proposed tract, the FMV, and MER of the tract.

Proprietary data marked as confidential may be submitted to the BLM in response to the solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing confidentiality of such information. 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. A copy of the comments submitted by the public on the EA, FMV and MER, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for review at the BLM Eastern States, 7450 Boston Blvd., Springfield, Virginia.

Comments should address, but need not be limited to the following:

1. The quality of the coal resource;
2. The mining methods or methods which would achieve MER of the coal, including specifications of seams to be mined and the most desirable timing and rate of production;
3. Whether this tract is likely to be mined as part of an existing mine and therefore should be evaluated on a realistic incremental basis, in relation to the existing mine to which it has the greatest value;
4. Whether the tract should be evaluated as part of a potential larger mining unit and re-evaluated as a portion of a new potential mine (i.e., a tract which does not in itself form a logical mining unit);
5. Restrictions to mining that may affect coal recovery;
6. The price that the mined coal would bring when sold;
7. Costs, including mining and reclamation, of producing the coal;
8. The timing and annual production tonnage;
9. The percentage rate at which anticipated income streams should be discounted, either with inflation or in the absence of inflation, in which case the anticipated rate of inflation should be given;
10. Depreciation, depletion, amortization and other tax accounting factors;
11. The value of any surface estate where held privately;
12. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area; and
13. Any comparable sales data of similar coal lands; mining conditions, and coal quantities.

Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

The foregoing is published in the **Federal Register** pursuant to 43 CFR Subparts 3422 and 3425.

Bruce Dawson,

BLM Southeastern States Field Office.

[FR Doc. 2013–14981 Filed 6–21–13; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDI002000.13300000.EO0000]

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Panels F and G Lease and Mine Plan Modification Project at Smoky Canyon Mine, Caribou County, ID

AGENCIES: Bureau of Land Management, Interior; United States Forest Service, Agriculture.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, the Federal Land Policy and Management Act (FLPMA) of 1976, and the Mineral Leasing Act of 1920, as amended, notice is hereby given that the U.S. Department of the Interior, Bureau of Land Management (BLM), Pocatello Field Office, and the U.S. Department of Agriculture, Forest Service (USFS), Caribou-Targhee National Forest (CTNF), will jointly prepare an environmental impact statement (EIS) to determine and analyze the effects of approving a proposed phosphate mine lease and mine plan modifications (the Proposed Action) on Federal mineral leases held by the J.R. Simplot Company (Simplot), in southeastern Idaho. The EIS will tier to the Final EIS prepared by the BLM and USFS for Panels F and G at Smoky Canyon Mine in 2007 and will consider the effects of the proposed lease and mine plan modifications.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the scope of the analysis described in this notice by July 24, 2013. The BLM will announce future meetings and any other public involvement activities at least 15 days in advance through public notices, media news releases, and/or mailings.

ADDRESSES: Written comments may be submitted to: Panels F and G Lease and Mine Plan Modification Project EIS, C/O JBR Environmental, 8160 South Highland Drive, Sandy, Utah 84093, or via email at: *blm_id_scm_panelsfg@blm.gov*. Please reference ''Panels F and G Lease and MinePlan Modification Project EIS'' on all correspondence.

FOR FURTHER INFORMATION CONTACT: Diane Wheeler, Bureau of Land Management, Pocatello Field Office, 4350 Cliffs Drive, Pocatello, Idaho

83204, phone 208–557–5839. Scoping information will also be available at the BLM's Web site at: *https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do,* or the USFS Web site at: *http://www.fs.usda.gov/projects/ctnf/landmanagement/projects*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM, as the Federal lease administrator, will serve as the lead agency and the USFS as the co-lead agency. The Idaho Department of Environmental Quality is a cooperating agency. Simplot has submitted lease and mine plan modifications for agency review for the existing Panel F (lease IDI–27512) and Panel G (lease IDI–01441) leases at the Smoky Canyon Phosphate Mine within the CTNF, in Caribou County, Idaho. The proposed project that the agencies are considering approving includes: (1) Construction of an ore conveyor system from Panel F to the existing mill to allow for more economic and efficient ore transport; and (2) expansion of a previously approved overburden disposal area (ODA) in order to accommodate the overburden generated from mining Panel G.

The Smoky Canyon Mine, operated by Simplot, is located approximately 10 air miles west of Afton, Wyoming, and approximately 8 miles west of the Idaho/Wyoming border. The existing Smoky Canyon mining and milling operations were authorized in 1982 by a mine plan approval issued by the BLM and special use authorizations issued by the USFS for off-lease activities, supported by the Smoky Canyon Mine Final EIS and Record of Decision (ROD). Mining operations began in Panel A in 1984 and have been continuing ever since with the mining of Panels A–E. In 2007, the BLM published a Final EIS and in 2008 RODs were issued approving the original mining and reclamation plan for Panels F and G (Final EIS and RODs available at: *http://www.fs.fed.us/outernet/r4/caribou-targhee/phosphate/*). Panel F is contiguous with the south end of the existing mine and Panel G is located approximately 1 mile southwest of Panel F. Mining activities associated with Panel F were initiated in 2008 and are ongoing. Mining activities associated with Panel G have been initiated through the early stages of haul road construction.

The proposed lease and mine plan modifications at Panels F and G of the Smoky Canyon Mine area would occur on Federal phosphate leases administered by the BLM situated on National Forest System (NFS) lands and on unleased parcels of NFS lands. The NFS lands involved lie within the Montpelier and Soda Springs Ranger Districts of the CTNF. The existing leases grant the lessee, Simplot in this case, exclusive rights to mine and otherwise dispose of the federally-owned phosphate deposit at the site.

Through development of this EIS, the BLM and the USFS will analyze environmental impacts of approving the proposed lease and mine plan modifications. Appropriate mitigation measures will also be formulated.

Agency Decisions: The BLM Idaho State Director or delegated official will approve, approve with modifications, or deny the proposed lease and mine plan modifications. The decision will be based on the EIS and any recommendations the USFS may have regarding surface management of leased NFS lands.

The USFS CTNF Supervisor will make recommendations to the BLM concerning surface management and mitigation on leased lands within the CTNF, and decisions on mine-related activities that occur off-lease within the CTNF. Special use authorizations from the USFS would be necessary for any off-lease structures located within the CTNF and associated with approval of the proposed lease and mine plan modifications by the BLM (e.g., portions of the ore conveyor system).

The applicable land use plans have been reviewed relative to the Proposed Action and at this time it is not anticipated that any amendments would be needed.

Background: Simplot submitted a proposal for lease and mine plan modifications for Panels F and G at the Smoky Canyon Mine in February 2013. The proposed modifications to Panel F are related to the construction and use of an ore conveyance system between Panel F and the existing mill. The proposed conveyance system would generally follow the existing haul road and would deviate only where engineering constraints dictate (i.e., too tight a corner on the road to construct the conveyor due to vertical and/or horizontal design limitations), such as at the north end of Panel F where Simplot is requesting a special use authorization to construct a portion of the ore conveyor off lease. Construction of the conveyor would eliminate the need to haul ore to the mill via haul trucks, although the haul road would remain open so that equipment can be transported to the shop for maintenance. The proposed 4.5-mile conveyor system would include a crusher and stockpile location on lease in Panel F.

There are three components to the proposed modification of Panel G: (1) Modification of lease IDI–01441 by 280 acres to accommodate the expansion of the previously approved east ODA; (2) increase in the on-lease disturbance area of the previously approved south ODA by 20 acres for the temporary storage of chert to be used for reclamation; and (3) utilization of a geo-synthetic clay laminate liner (GCLL) instead of the currently approved geologic cover over the in-pit backfill and the east external ODA. The current lease area for Panel G is not large enough to allow for maximum ore recovery and the necessary overburden disposal. The lease modification is necessary to accommodate all of the overburden generated from mining Panel G as analyzed in the Final EIS. At the time the RODs for the 2007 FEIS were issued, neither the BLM nor the USFS had the regulatory authority to approve Simplot's original plan for overburden storage. This is detailed in the RODs, which are available at *http://www.fs.fed.us/outernet/r4/caribou-targhee/phosphate/*. In 2009, the rules were modified giving the BLM authority to approve a lease modification for the purpose of overburden storage.

In an effort to mitigate for the increased footprint of the seleniferous ODA, Simplot is proposing to cover all seleniferous overburden in Panel G with a GCLL. They feel it is in the best interest of increased long-term environmental protection and may lend itself to a more expeditious review of the proposed modifications to the leases and mine plan. In addition, Simplot is proposing stormwater control features to address run-off from the proposed GCLL. It is estimated that up to 17 acres of new disturbance may be necessary for these stormwater features. Portions of these features could be situated on lease, within the proposed lease modification area, or off lease. Off-lease disturbance would require USFS special use authorization.

In total, approximately 160 acres are proposed for new disturbance. Compared to what was analyzed in the 2007 Final EIS, there would be an additional 10 acres disturbed for the ore conveyor system (mostly at the north end of Panel F); 20 acres for the Panel G south ODA expansion of temporary chert storage; up to 17 acres for storm

water control features to address run-off from the GCLL at Panel G; and 113 acres for the Panel G east seleniferous ODA expansion.

The EIS will tier to the 2007 Final EIS previously prepared for mining at Panels F and G and approved in 2008 by BLM and USFS RODs. Preliminary issues related to the proposed project that have already been identified and will be addressed in the EIS include: (1) An increase in the amount of disturbance of approximately 160 acres, or approximately 12 percent over what was analyzed in the 2007 Final EIS; (2) potential impacts to groundwater quantity because of a decrease in recharge area to the Wells Formation due to the GCLL; (3) potential impacts to surface water quality after reclamation due to the reduced infiltration of the GCLL, potentially increasing peak streamflows which have the potential to increase channel instability and cause stream bank and stream bed erosion; and (4) an increase in the amount of disturbance of approximately 70 acres within the Sage Creek Inventoried Roadless Area (General Forest Theme), which is 6 percent over what was analyzed in the 2007 Final EIS.

The BLM and USFS will use the NEPA public participation requirements to assist the agency in satisfying public involvement under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the Proposed Action will assist in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM and USFS will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts to treaty rights and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed project that is being evaluated, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM or USFS to participate in the development of the environmental analysis as a cooperating agency.

Alternatives and Schedule: At a minimum, the EIS will analyze the Proposed Action and the No Action Alternative. Under the No Action Alternative, the proposed modifications to the leases, operating plan, and special use authorizations will not be approved, and mining will continue under the currently authorized mine plan as approved by the 2008 RODs. Under the No Action Alternative, Simplot estimates that approximately 50 percent of the phosphate ore in Panel G, previously considered economically recoverable, would not be mined but the overall disturbance would remain the same. In addition, the proposed conveyor system would not be approved, thus no new disturbance associated with the conveyor would occur. The previously approved geologic cover would be used to limit or prevent the potential release of contaminants to the environment. Other alternatives may be considered that could provide mitigation of potential impacts.

The tentative EIS project schedule is as follows:

- *Begin public scoping period and meetings:* Spring/Summer 2013.
- *Release draft EIS and associated comment period:* Fall/Winter 2013.
- *Final EIS publication:* Summer 2014.
- *Record of Decision:* Summer/Fall 2014.

Scoping Procedure: The scoping procedure to be used for this EIS will involve notification in the **Federal Register**; a mailing to interested and potentially affected individuals, groups, Federal, State, and local government entities requesting input by way of comments, issues and concerns; news releases or legal notices; and public scoping meetings.

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. Comments will be available for public review at the BLM address listed above during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except Federal holidays.

The BLM and the USFS are seeking information and written comments concerning the Proposed Action from Federal, State, Tribal, and local agencies, individuals, and organizations interested in, or affected by the Proposed Action or the No Action Alternative. To assist the BLM and the USFS in identifying issues and concerns related to the Proposed Action, scoping comments should be as specific as possible. This proposed project is subject to the objection process pursuant to 36 CFR part 218 subparts A and B. Only those who provide comment or otherwise express interest in the Proposed Action either during scoping or other designated opportunity for public comment will be eligible as objectors (36 CFR 218.5).

At least three ''open-house'' style public scoping meetings will be held which will include displays explaining the project and a forum for asking questions and commenting on the project. Meetings are planned to be held in Pocatello and Fort Hall, Idaho, and Afton, Wyoming. The dates, times, and locations of the public scoping meetings will be announced in mailings and public notices issued by the BLM.

Authority: 42 U.S.C. 4321 et seq.; 40 CFR Parts 1500–1508; 43 CFR Part 46; 43 U.S.C. 1701; and 43 CFR Part 3590.

Dated: April 30, 2013.

Joe Kraayenbrink,

District Manager, Idaho Falls District, Bureau of Land Management.

Brent Larson,

Forest Supervisor, Caribou-Targhee National Forest.

[FR Doc. 2013–14983 Filed 6–21–13; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD01000 L12200000.AL 0000]

Meeting of the Imperial Sand Dunes Recreation Area (ISDRA) Subgroup of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the Imperial Sand Dunes Recreation Area Subgroup of the California Desert District Advisory Council (DAC) to the Bureau of Land Management (BLM), U.S. Department of the Interior, will meet on Thursday, June 27, 2013, from 4 to 6 p.m. at the Bureau of Land Management (BLM) El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243.

The meeting will provide the public an opportunity to discuss the final ISDRA business plan. The subgroup will also formulate recommendations for presentation to the DAC in July. Public safety will also be discussed. The ISDRA Subgroup discussions and public involvement assists the BLM in managing the ISDRA.

The ISDRA Subgroup operates under the authority of the DAC and provides input to the BLM regarding issues pertinent to the ISDRA.

SUPPLEMENTARY INFORMATION: All meetings of the DAC and subgroups of the DAC are open to the public. Written comments may be filed in advance of the meeting for the California Desert District Advisory Council ISDRA Subgroup, c/o Bureau of Land Management, External Affairs, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553 or *dbriery@blm.gov*. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes. In addition, a toll-free call-in number will be posted on *www.blm.gov/ca/st/en/fo/elcentro/recreation/ohvs/isdra/dunesinfo/funding/isdradacsg.htm*.

FOR FURTHER INFORMATION CONTACT: David Briery, BLM California Desert District External Affairs, (951) 697–5220.

Dated: June 12, 2013.

Teresa A. Raml,

District Manager, California Desert District.

[FR Doc. 2013–15049 Filed 6–21–13; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[A20–0805–4999–400–00–0–0–2, 2100000]

Resource Management Plan/General Plan and Environmental Impact Statement/Environmental Impact Report for the San Luis Reservoir State Recreation Area, Merced County, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Reclamation and the California Department of Parks and Recreation (CDPR) have prepared a Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Luis Reservoir State Recreation Area Resource Management Plan/General Plan (RMP/GP). The Final EIS/EIR describes and presents the environmental effects of the No Action/No Project Alternative and three Action Alternatives for implementing the RMP/GP.

A Notice of Availability of the Draft EIS/EIR was published in the **Federal Register** on August 3, 2012 (77 FR 46518). The comment period on the Draft EIS/EIR ended on October 2, 2012. The Final EIS/EIR contains responses to all comments received and reflects comments and any additional information received during the review period.

DATES: Reclamation will not make a decision on the proposed action until at least 30 days after release of the Final EIS/EIR. After the 30-day waiting period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

The California State Parks and Recreation Commission Hearing on the Final EIS/EIR will be held in August 2013. A Notice of Determination will be filed after the Commission Hearing. This action will trigger a 30-day appeal period under CEQA.

ADDRESSES: Send requests for a compact disc copy of the Final EIS/EIR to Mr. Dave Woolley, Bureau of Reclamation, 1243 N Street, Fresno, CA 93721, or by email to *dwoolley@usbr.gov*.

The Final EIS/EIR is also accessible from the following Web site: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=548*. See the Supplementary Information section below for locations where copies of the Final RMP/GP EIS/EIR are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Woolley, Bureau of Reclamation, at 559–487–5049 (TTY 1–800–735–2929) or *dwoolley@usbr.gov*.

SUPPLEMENTARY INFORMATION: The Final EIS/EIR analyzes the direct, indirect, and cumulative effects to the physical, biological, and socioeconomic environment that may result from various resource management alternatives contained in the subject document.

The Final EIS/EIR: (1) Identifies the current and most appropriate future uses of land and water resources within the RMP/GP area; (2) identifies the long-term resource programs and implementation guidelines to manage and develop recreation, natural, and cultural resources; and (3) develops strategies and approaches to protect and preserve the natural, recreational, aesthetic, and cultural resources.

The RMP/GP was initially released with a Draft EIR in 2005 for compliance with the California Environmental Quality Act (CEQA). The RMP/GP was reissued with a joint Draft EIS/Revised Draft EIR for the purposes of both National Environmental Policy Act and CEQA compliance.

The RMP/GP area consists of over 27,000 acres owned by the Bureau of Reclamation (Reclamation) and includes the water surfaces of San Luis Reservoir, O'Neill Forebay, Los Banos Creek Reservoir, and adjacent recreation lands within the vicinity of Los Banos, California. The general project location is south of State Route 152 between U.S. 101 and Interstate 5, approximately two hours southeast from San Francisco.

San Luis Reservoir and the other facilities mentioned above were constructed between 1963 and 1967 as part of the water storage and delivery system of reservoirs, aqueducts, power plants, and pumping stations operated within the California State Water Project and Central Valley Project. The California Department of Parks and Recreation was given the responsibility to plan, design, construct, maintain, and operate the recreation areas surrounding the reservoirs.

The purpose of the RMP/GP is to: (1) Enhance natural resources and recreational opportunities consistent with reservoir operations; (2) provide recreational opportunities to meet the demands of a growing population with diverse interests; (3) ensure diversity of recreational opportunities and quality of the recreational experience; (4) protect natural, cultural, and recreational sources while providing resource education opportunities and stewardship; and (5) provide updated management direction for establishing a new management agreement with the State of California.

The Final EIS/EIR contains a program-level analysis of the potential impacts associated with adoption of the RMP/GP. The Final EIS/EIR outlines the formulation and evaluation of alternatives designed to address these issues through a representation of the varied interests at the Plan Area and identifies Alternative 3 (Moderate New Access and Development) as the preferred alternative. The Final EIS/EIR includes goals, guidelines, and management actions to avoid and minimize potential impacts, as well as mitigation measures to reduce potential adverse effects. The RMP/GP has been developed within the authorities provided by Congress through the Reclamation Recreation Management Act of 1992 (Pub. L. 102–575, Title 28, 16 U.S.C. 460L) and other applicable agency and Department of the Interior policies.

Copies of the Final EIS/EIR are available for public review at the following locations:

- Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
- Bureau of Reclamation, South-Central California Area Office, 1243 N Street, Fresno, CA 93721.
- California Department of Parks and Recreation, Four Rivers Sector Office, 31426 Gonzaga Road, Gustine, CA 95322.

• Los Banos Library, 1312 South 7th Street, Los Banos, CA 93635.

• California Department of Parks and Recreation, Northern Service Center, One Capitol Mall, Suite 410, Sacramento, CA 95814.

• Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225.

• Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in any correspondence, you should be aware that your entire correspondence—including your personal identifying information—may be made publicly available at any time. While you can ask us in your correspondence to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 29, 2013.

Pablo R. Arroyave,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 2013–15051 Filed 6–21–13; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On June 18, 2013, the Department of Justice lodged a proposed consent decree with the United States District Court for the Southern District of Illinois in the lawsuit entitled *United States* v. *New River Royalty, LLC,* Civil Action No. 3:13–cv–00584–JPG–SCW.

The United States filed this lawsuit under the Clean Water Act. The United States' complaint seeks injunctive relief and civil penalties for discharges of pollutants, in violation of Section 301 of the Clean Water Act, at property located approximately five miles east of Johnston City in Williamson County, Illinois. The consent decree requires the defendant to perform injunctive relief and pay an $820,000 penalty. The consent decree further requires the defendant to perform offsite mitigation of the harm caused by the violations.

The publication of the notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *New River Royalty, LLC,* D.J. Ref. No. 90–5–1–1–10180. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, D.C. 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $10.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–14952 Filed 6–21–13; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–13–0028]

Senior Executive Service (SES) Performance Review Board; Members

AGENCY: National Archives and Records Administration.

ACTION: Notice of SES Performance Review Board Appointments.

SUMMARY: Notice is hereby given of the appointment of members of the National Archives and Records Administration (NARA) Performance Review Board (PRB). The members of the PRB are: Debra Steidel Wall, Deputy Archivist of the United States; William J. Bosanko, Chief Operating Officer; Sean M. Clayton, Chief Human Capital Officer; and Micah M. Cheatham, Chief Financial Officer. These appointments supersede all previous appointments.

DATES: *Effective Date:* This appointment is effective on June 24, 2013.

FOR FURTHER INFORMATION CONTACT: Pamela S. Pope, Office of Human Capital, Talent Management Division (HT), National Archives and Records Administration, 1 Archives Drive, St. Louis, MO 63138, (314) 801–0882.

SUPPLEMENTARY INFORMATION: The authority for this notice is 5 U.S.C. 4314(c), which also requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The Board shall review the initial appraisal of a senior executive's performance by the supervisor and recommend final action to the appointing authority regarding matters related to senior executive performance.

Dated: June 14, 2013.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2013–15010 Filed 6–21–13; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the National Council on the Humanities will meet for the following purposes: to advise the Acting Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out her functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended) and make recommendations thereon to the Acting Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Acting Chairman.

DATES: The meeting will be held on Thursday and Friday, July 11–12, 2013, each day from 9:00 a.m. until adjourned.

ADDRESSES: The meeting will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that

information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282. Please provide advance notice of any special needs or accommodations, including for a sign language interpreter.

SUPPLEMENTARY INFORMATION: The Committee meetings of the National Council for the Humanities will be held on July 11, 2013, as follows: the policy discussion session (open to the public) will convene at 9:00 a.m. and last until approximately 10:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 10:30 a.m. until adjourned.

Challenge Grants & Federal/State Partnership: Room 507
Digital Humanities: Room 402
Education Programs: Room M–07
Preservation and Access: Room 415
Public Programs: Room 421
Research Programs: Room 315

In addition, the Jefferson Lecture/National Humanities Medal Committee (closed to the public) will meet from 1:30 p.m. until 3:00 p.m. in Room 527.

The Plenary Session of the National Council for the Humanities will convene on July 12, 2013 at 9:00 a.m. in Room M–09. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting
B. Reports
1. Introductory Remarks
2. Staff Report
3. Congressional Report
4. Budget Report
5. Reports on Policy and General Matters
a. Challenge Grants & Federal/State Partnership
b. Digital Humanities
c. Education Programs
d. Preservation and Access
e. Public Programs
f. Research Programs
g. Jefferson Lecture/National Humanities Medals

The remainder of the Plenary Session will be for consideration of specific applications and Jefferson Lecture and National Humanities Medal candidates, and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: June 18, 2013.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2013–15057 Filed 6–21–13; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0133]

ASME Code Cases Not Approved for Use

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–1233, ''ASME Code Cases not Approved for Use.'' This regulatory guide lists the American Society of Mechanical Engineers (ASME) Code Cases that the NRC has determined not to be acceptable for use on a generic basis.

DATES: Submit comments by September 9, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0133. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: Wallace E. Norris, telephone: 301–251–7650, email: *Wallace.Norris@nrc.gov;* or Hector Rodriguez-Luccioni, telephone: 301–251–7685 or email: *Hector.Rodriguez-Luccioni@nrc.gov.* Both of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0133 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, by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0133.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The DG–1233 is available in ADAMS Accession under Accession No. ML13114A948.

• *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.

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B. Submitting Comments

Please include Docket ID NRC–2013–0133 in the subject line of your

comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a draft guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, ''ASME Code Cases not Approved for Use,'' is temporarily identified by its task number, DG–1233 (ADAMS Accession No. ML13114A948). The DG–1233 is proposed Revision 4 of Regulatory Guide 1.193. Revision 3 of Regulatory Guide 1.193 was published in October 2010 (ADAMS Accession No. ML101800540).

The purpose of RG 1.193 is to provide information for applicants and licensees regarding the ASME Boiler and Pressure Vessel Code (BPV) and Operation and Maintenance (OM) of nuclear power plants Code Cases that the NRC has determined not to be acceptable for use on a generic basis.

Regulatory Guide 1.193 lists the Code Cases that the NRC has determined not to be acceptable for use on a generic basis. A brief description of the basis for the determination is provided with each Code Case. There are three other RGs that list the Code Cases that the NRC has found to be acceptable alternatives to requirements in the ASME BPV and OM Codes.

In the Proposed Rules section of this issue of the **Federal Register,** a notice of issuance and availability addresses the RGs listing the ASME BPV and OM Code Cases that the NRC has approved for use by applicants and licensees: RG 1.84, Revision 36, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III''; RG 1.147, Revision 17, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1''; and RG 1.192, Revision 1, ''Operation and Maintenance Code Case Acceptability, ASME OM Code.'' The aforementioned notice is available at *www.regulations.gov* by searching on Docket ID NRC–2009–0359.

Regarding draft Revision 4 of RG 1.193, the NRC reviewed the Code Cases listed in Supplements 1 through 10 of the 2007 Edition of the BPV Code and the 2002 through 2006 Addenda of the OM Code. Licensees may submit a request to implement one or more of the Code Cases listed in RG 1.193 through § 50.55a(z) of Title 10 of the *Code of Federal Regulations* (10 CFR), which permits the use of alternatives to the Code requirements referenced in 10 CFR 50.55a provided that the proposed alternatives result in an acceptable level of quality and safety. Licensees must submit a plant-specific request that addresses the NRC's concerns about the Code Case at issue.

In the Proposed Rules section of this issue of the **Federal Register,** a proposed rule that would incorporate by reference RGs 1.84, 1.147, and 1.192 into 10 CFR Part 50, ''Domestic Licensing of Production and Utilization Facilities'' (RIN 3150–AI72; NRC–2009–0359). The statement of considerations for the proposed rule lists the acceptable and conditionally acceptable Code Cases, and discusses the bases for the proposed conditions.

III. Backfitting and Issue Finality

The purpose of this section is to provide information to applicants and licensees regarding the NRC staff's plans for using this regulatory guide. *This regulatory guide does not approve the use of the Code Cases listed herein.* Licensees may submit a plant-specific request to implement one or more of the Code Cases listed in this regulatory guide. The request must address the NRC's concerns about the Code Case at issue.

Dated at Rockville, Maryland, this 6th day of June 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–15018 Filed 6–21–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on July 9–12, 2013, 11545 Rockville Pike, Rockville, Maryland.

Tuesday, July 9, 2013, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

1:00 p.m.–1:05 p.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

1:05 p.m.–4:00 p.m.: Spent Fuel Pool Study (SFPS) (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the conclusion of the study to examine consequences of a beyond-design-basis earthquake affecting the spent fuel pool for a US Mark I boiling water reactor.

4:15 P.M.–7:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

Wednesday, July 10, 2013, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: State of the Art Reactor Consequence Analysis (SOARCA) Uncertainty Analyses (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft NUREG/CR–7155 Report, ''State-of-the-Art Reactor Consequence Analyses Project, Uncertainty Analysis of the Unmitigated Long-Term Station Blackout of the Peach Bottom Atomic Power Station.''

10:45 a.m.–12:45 p.m.: Proposed Revision to 10 CFR Part 61 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff

regarding a proposed rulemaking to modify portions of 10 CFR Part 61, ''Licensing Requirements for Land Disposal of Radioactive Waste.''

1:45 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Thursday, July 11, 2013, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–9:15 a.m.: Discussion of Topics for Meeting with the Commission (Open)—The Committee will discuss the following topics for its meeting with the Commission: (1) Overview; (2) Draft Design Specific Review Standard for mPower iPWR Chapter 7, ''Instrumentation and Control Systems;'' (3) Station Blackout Rulemaking; (4) Next Generation Nuclear Plant (NGNP) Licensing Issues; (5) Draft NUREG–2125, ''Spent Fuel Transportation Risk Assessment;'' and (6) Draft NUREG–1855, ''Guidance on the Treatment of Uncertainties Associated with PRAs in Risk-Informed Decisionmaking.''

9:30 a.m.–11:30 a.m.: Meeting with the Commission (Open)—The Committee will discuss topics of mutual interest with the NRC Commission.

1:00 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Friday, July 12, 2013, Conference Room T–2b1, 11545 Rockville Pike, Rockville, Md

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:00 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. [**Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

10:00 a.m.–10:15 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

10:15 a.m.–11:00 a.m.: Miscellaneous (Open)—Discussion of matters related to the conduct of Committee Activities and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (76 FR 64146–64147). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Antonio Dias, Cognizant ACRS Staff (Telephone: 301–415–6805, Email: *Antonio.Dias@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. 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 the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) Public Law 92–463, and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: June 18, 2013.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2013–15042 Filed 6–21–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0021]

Quality Assurance Program Requirements (Operations)

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to Regulatory Guide (RG) 1.33, ''Quality Assurance Program Requirements (Operations).'' This RG describes methods that the staff of the NRC considers acceptable for managerial and administrative Quality Assurance (QA) controls for nuclear power plants during operations.

ADDRESSES: Please refer to Docket ID NRC–2013–0021 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 the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0021. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov*.
- *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. Revision 3 of Regulatory Guide 1.33, is available in ADAMS under Accession No. ML13109A458. The regulatory analysis may be found in ADAMS under Accession No. ML13109A459.

• *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.

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FOR ADDITIONAL INFORMATION CONTACT: Hector Rodriguez-Luccioni Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–251–7685; email: *Hector.Rodriguez-Luccioni@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 3 of RG 1.33 was issued with a temporary identification as Draft Regulatory Guide, DG–1300. This guide describes the methods that the NRC staff considers acceptable for complying with the provisions of regulations in § 50.34(b)(6)(ii), ''Contents of applications; technical information'' of part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' and in § 52.79(a)(27), ''Contents of applications; technical information in final safety analysis report,'' of 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' Both sections require compliance with 10 CFR Part 50, Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,'' which, in part, requires the establishment of QA controls for the implementation of managerial and administrative controls to assure safe operation.

II. Additional Information

DG–1300, was published in the **Federal Register** on February 4, 2013 (78 FR 7816) for a 60-day public comment period. The public comment period closed on April 1, 2013. Public comments on DG–1300 and the staff responses to the public comments are available under ADAMS Accession Number ML13109A467.

This regulatory guide is a rule as designated in the Congressional Review Act (5 U.S.C. 801–808). However, OMB has not found it to be a major rule as designated in the Congressional Review Act.

III. Backfitting and Issue Finality

Issuance of this final regulatory guide does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR Part 52. As discussed in the ''Implementation'' section of this regulatory guide, the NRC has no current intention to impose this regulatory guide on holders of current operating licenses or combined licenses.

This regulatory guide may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for operating licenses and combined licenses submitted after the issuance of the regulatory guide. Such action does not constitute backfitting as defined in 10 CFR 50.109(a)(1) or is otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in part 52.

Dated at Rockville, Maryland, this 13th day of June 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–15041 Filed 6–21–13; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2013–68; Order No. 1750]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Global Expedited Package Services 3 Contract to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 25, 2013.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Background
III. Contents of Filing
IV. Commission Action

I. Introduction

On June 17, 2013, the Postal Service filed a notice stating that it has entered into an additional Global Expedited Package Services (GEPS) 3 negotiated service agreement (Agreement).[1] The Postal Service seeks inclusion of the Agreement within the GEPS 3 product. Notice at 2.

II. Background

The Commission first approved the addition of GEPS 3 to the competitive product list as a result of consideration of Governors' Decision No. 08–7 in Docket No. CP2008–5.[2] The Commission later added GEPS 3 to the competitive product list and authorized that the agreement filed in Docket No. CP2010–71 serve as the baseline

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 17, 2013 (Notice).

[2] *See* Docket No. CP2008–5, Order No. 86, Order Concerning Global Expedited Package Services Contracts, June 27, 2008.

agreement for comparison of potentially functionally equivalent agreements.[3]

The Agreement is the successor to the agreement approved in Docket No. CP2012–31. *Id.* at 3. The Agreement is intended to take effect July 8, 2013, following the July 7, 2013 expiration of the current agreement.[4] *Id.* It is set to expire 1 year after its effective date. *Id.* Attachment 1 at 7.

III. Contents of Filing

The Notice includes the following attachments:

- Attachment 1—a redacted copy of the Agreement;
- Attachment 2—a redacted copy of the certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–7, which establishes prices and classifications for Global Expedited Package Services Contracts; and
- Attachment 4—an application for non-public treatment of materials to be filed under seal.

Materials filed under seal include unredacted copies of the Agreement, the certified statement, and supporting financial workpapers. *Id.* Attachment 4 at 3. The Postal Service filed redacted versions of the financial workpapers as public Excel files.

In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the GEPS 3 baseline agreement, notwithstanding differences in two of the introductory paragraphs of the Agreement; revisions to several existing articles; and new, deleted, and renumbered articles. *Id.* at 3–7. The Postal Service states that these differences affect neither the fundamental service being offered under the Agreement nor the Agreement's fundamental structure. *Id.* at 7.

The Postal Service concludes that the Agreement is in compliance with the requirements of 39 U.S.C. 3633 and that the Agreement is functionally equivalent to the baseline agreement. *Id.* The Postal Service therefore requests that the Commission add the Agreement to the GEPS 3 product. *Id.*

[3] *See* Docket Nos. MC2010–28 and CP2010–71, Order No. 503, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, July 29, 2010.

[4] Concurrently with this order, the Commission is granting a brief extension of the Docket No. CP2012–31 agreement (from June 30, 2013 to July 7, 2013) as requested by the Postal Service in a Motion for Temporary Relief. *See* Docket No. CP2012–31, Motion of the United States Postal Service for Temporary Relief Concerning a Global Expedited Package Services 3 Negotiated Service Agreement, June 17, 2013.

IV. Commission Action

The Commission establishes Docket No. CP2013–68 for consideration of matters raised by the Notice. Interested persons may submit comments on whether the Postal Service's filings are consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and subpart B of 39 CFR part 3020. Comments are due no later than June 25, 2013. The public portions of the Postal Service's filing can be accessed via the Commission's Web site, *http://www.prc.gov.* Information concerning access to non-public material is located in 39 CFR part 3007.

The Commission appoints Kenneth R. Moeller to serve as Public Representative in the above captioned proceeding.

It is ordered:

1. The Commission establishes Docket No. CP2013–68 for consideration of the matters raised by the Postal Service's Notice.
2. Comments by interested persons in this proceeding are due no later than June 25, 2013.
3. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–14992 Filed 6–21–13; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Notice of Exempt Preliminary Roll-Up Communication, OMB Control No. 3235–0452, SEC File No. 270–396.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Exchange Act Rule 14a–6(n) [17 CFR 240.14a–6(n)] requires any person that engages in a proxy solicitation subject to Exchange Act Rule 14a–2(b)(4) [17 CFR 240.14a–2(b)(4)] to file a Notice of Exempt Preliminary Roll-Up Communication (''Notice'') [17 CFR 240.14a–104] with the Commission. The Notice provides information regarding ownership interest and any potential conflicts of interest to be included in statements submitted by or on behalf of a person engaging in the solicitation. The Notice is filed on occasion and the information required is mandatory. All information is provided to the public upon request. We estimate the Notice takes approximately 0.25 hours per response and is filed by approximately 4 respondents for a total of one annual burden hour.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 19, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14976 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, June 27, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

institution and settlement of injunctive actions;
institution and settlement of administrative proceedings;
adjudicatory matters; and
other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: June 20, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–15155 Filed 6–20–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69790; File No. SR–NYSEArca–2013–59]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to NYSE Arca Options Rule 6.72 To Extend the Penny Pilot in Options Classes in Certain Issues Through December 31, 2013

June 18, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 10, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 Commentary .02 to NYSE Arca Options Rule 6.72 in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 hereby proposes to amend Commentary .02 to Exchange Rule 6.72 to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2013 through December 31, 2013.[5] The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2013.[6]

This filing does not propose any substantive changes to the Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [7] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on Competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 69106 (March 11, 2013), 78 FR 16552 (March 15, 2013) (SR–NYSEArca–2013–22).

[5] The Exchange has filed to make the Pilot Program permanent. *See* SR–NYSEArca–2013–42.

[6] The month immediately preceding a replacement class's addition to the Pilot Program (i.e., June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2013 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2012 through May 31, 2013. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

Pilot Program is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending of the Pilot Program will allow for continued competition between market participants on the NYSE Arca trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[13] However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[15] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–59 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–2013–59. 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–2013–59 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14975 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 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 the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 4.

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69789; File No. SR–BOX–2013–31]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Penny Pilot Program and Amend Rule 7050

June 18, 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 June 11, 2013, BOX Options Exchange LLC (the ''Exchange'') 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 proposes to amend Rule 7260 to extend, through December 31, 2013, the pilot program that permits certain classes to be quoted in penny increments (''Penny Pilot Program'') and to remove obsolete rule text from Rule 7050. The text of the proposed rule change is available from the principal office of the Exchange, on the Exchange's Internet Web site at *http://boxexchange.com,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the effective time period of the Penny Pilot Program that is currently scheduled to expire on June 30, 2013, for an additional six months, through December 31, 2013.[3] The Penny Pilot Program permits certain classes to be quoted in penny increments. The minimum price variation for all classes included in the Penny Pilot Program, except for the QQQs, SPY and IWM, will continue to be $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. The QQQs, SPY and IWM, will continue to be quoted in $0.01 increments for all options series.

The Exchange may replace any Pilot Program classes that have been delisted on the second trading day following July 1, 2013. The replacement classes will be selected based on trading activity for the six month period beginning December 1, 2012, and ending May 31, 2013. The Exchange will employ the same parameters to prospective replacement classes as approved and applicable under the Pilot Program, including excluding high-priced underlying securities. The Exchange will distribute a Regulatory Circular notifying Participants which replacement classes shall be included in the Penny Pilot Program.

Additionally, the Exchange proposes to remove obsolete rule text from BOX Rule 7050 (b) regarding the issuance of Regulatory Circulars by the Exchange which specify the options trading in the pilot and in what increments. These Regulatory Circulars are no longer filed with the Commission and removing this text will conform the Penny Pilot Program with the rules of the other exchanges.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[4] in general, and Section 6(b)(5) of the Act,[5] in particular, in that it is designed 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 for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed extension will allow the Penny Pilot Program to remain in effect without interruption.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change does not impose any new or additional burden on BOX Options Participants, and only extends the current Penny Pilot Program, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b-4(f)(6) thereunder.[7] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[12] Accordingly, the

[3] The Penny Pilot Program has been in effect on the Exchange since its inception in May 2012. See Securities Exchange Act Release Nos. 66871 (April 27, 2012) 77 FR 26323 (May 3, 2012) (File No. 10–206, In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission), 67328 (June 29, 2012) 77 FR 40123 (July 6, 2012) (SR–BOX–2012–007), and 68425 (December 13, 2012) 77 FR 75234 (December 19, 2013) (SR–BOX–2012–021). The extension of the effective date is the only change to the Penny Pilot Program being proposed at this time.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] 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 the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1,

Continued

Commission designates the proposed rule change as operative upon filing with the Commission.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2013–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2013–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–BOX–2013–31 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14964 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

2009) (SR–NYSEArca–2009–44). *See also supra* note 3.

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69785; File No. SR–MIAX–2013–28]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Penny Pilot Program

June 18, 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 June 12, 2013, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 510, Interpretations and Policies .01 to extend the pilot program for the quoting and trading of certain options in pennies (the ''Penny Pilot Program'') and to revise the provision describing how the Exchange specifies which option classes trade in the Penny Pilot Program.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the ''Penny Pilot Program'' or ''Program''). Specifically, the Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of $0.01 for all series in such option classes with a price of less than $3.00; and in minimum increments of $0.05 for all series in such option classes with a price of $3.00 or higher. Options overlying the PowerShares QQQ Trust (''QQQQ'')®, SPDR S&P 500 Exchange Traded Funds (''SPY''), and iShares Russell 2000 Index Funds (''IWM''), however, are quoted and traded in minimum increments of $0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007 and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on June 30, 2013. The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through December 31, 2013.

In addition to the extension of the Penny Pilot Program through December 31, 2013, the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program. The replacement issues will be selected based on trading activity in the previous six months and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

will be added to the Penny Pilot Program on the second trading day following July 1, 2013. Please note, the month immediately preceding a replacement class's addition to the Pilot program (*i.e.,* June) will not be used for purposes of the six-month analysis. Thus, a replacement added on the second trading day following July 1, 2013 will be identified based on trading activity from December 1, 2012 through May 31, 2013. Rule 510 has been updated to reflect the new date replacement issues will be added to the Penny Pilot Program.

Finally, the Exchange proposes to revise the provision describing how the Exchange specifies which option classes trade in the Penny Pilot Program. Currently, the rule provides that the Exchange specifies which option classes trade in the Penny Pilot Program and in what increments in a Regulatory Circular that has been filed with the Commission pursuant to Rule 19b–4 under the Exchange Act and distributed to its Members. The Exchange now proposes to revise that provision to indicate information regarding the option classes trading in the Penny Pilot Program will be communicated to Members through a Listings Alert and posted on the Exchange's Web site.[3] By revising this provision, the Exchange will eliminate the requirement to file a Regulatory Circular with the Commission pursuant to Rule 19b–4.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. In addition, the revision to how the Exchange will specify which options participate in the Penny Pilot Program promotes just and equitable principles of trade since it clarifies how Members and other market participants will be made aware of which options classes are trading in the Penny Pilot Program and eliminates an unnecessary requirement that the Exchange specify which option classes are in the Penny Pilot Program through a Regulatory Circular that has been filed with Commission pursuant to Rule 19b–4 under the Act. The requirement to file the Regulatory Circular with the Commission is unnecessary because most (*i.e.,* all but two option exchanges[6]) do not require such a submission to the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, consistent with previous practices, the Exchange believes the other options exchanges will be filing similar extensions of the Penny Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)(iii) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[13]

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.

[3] This revision is consistent with rules at most of the other options exchanges participating in the Penny Pilot Program: BATS Exchange, Inc. (''BATS'') Rule 21.5, Interpretations and Policies .01; NASDAQ OMX BX, Inc. (''BX'') Chapter VI, Section 5(3); NASDAQ OMX PHLX, Inc. (''PHLX'') Rule 1034(a)(i)(B); The NASDAQ Stock Market LLC (''NOM'') Chapter VI, Section 5; NYSE MKT LLC Rule 960NY, Commentary .02; and NYSE Arca, Inc. Rule 6.72, Commentary .02.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] Only BOX Options Exchange LLC (at Rule 7050(b)) and International Securities Exchange, LLC (at Rule 710, Supplementary Materials .01) require that the Regulatory Information Circulars specifying which options trade in the Penny Pilot Program be submitted to the Commission.

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] 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 the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, 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–MIAX–2013–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2013–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, 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–MIAX–2013–28 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14963 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69787; File No. SR–NASDAQ–2013–082]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

June 18, 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 June 11, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 is filing with the Commission a proposal to amend Chapter VI, Section 5 (Minimum Increments) of the rules of the NASDAQ Options Market (''NOM'') to extend through December 31, 2013, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.[3]

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii)[4] to the extent needed for timely industry-wide implementation of the proposal.

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is italicized and proposed deleted language is [bracketed].

NASDAQ Stock Market Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on NOM. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1)–(2) No Change.

(3) For a pilot period scheduled to expire on [June 30]*December 31,* 2013, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity [for]*in* the *previous* six months[period beginning June 1, 2012, and ending November 30, 2012]. The replacement issues may be added to the pilot on the second trading day following [January]*July* 1, 2013.

(4) No Change.

(b) No Change.

* * * * *

The text of the proposed rule change is available from NASDAQ's Web site at *http://nasdaq.cchwallstreet.com,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Penny Pilot was established in March 2008 and was last extended in December 2012. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); and 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2013).

[4] 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Chapter VI, Section 5 to extend the Penny Pilot through December 31, 2013, and to change the date when delisted classes may be replaced in the Penny Pilot.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2013.

The Exchange proposes to extend the time period of the Penny Pilot through December 31, 2013, and to provide revised dates for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2013. The replacement issues will be selected based on trading activity in the previous six months.[5]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2013 and changes the date for replacing Penny Pilot issues that were deleted to the second trading day following July 1, 2013, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the

[5] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. To conform with rules of other exchanges (e.g. NYSE Arca's options rule 6.72), the Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2012 through May 31, 2013. The month immediately preceding the replacement issues' addition to the Pilot Program (i.e. June) would not be used for purposes of the six-month analysis.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 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 the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–082 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–2013–082. 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–NASDAQ–2013–082 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14960 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69791; File No. SR–NYSEMKT–2013–48]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to NYSE Amex Options Rule 960NY to Extend the Penny Pilot in Options Classes in Certain Issues Through December 31, 2013

June 18, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 10, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 proposes [sic] to [sic] amend Commentary .02 to NYSE Amex Options Rule 960NY in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 hereby proposes to amend Commentary .02 to Exchange Rule 960NY to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2013 through December 31, 2013. The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2013.[5]

This filing does not propose any substantive changes to the Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[6] of the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 69105 (March 11, 2013), 78 FR 16554 (March 15, 2013) (SR–NYSEMKT–2013–17).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (i.e., June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2013 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2012 through May 31, 2013. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[6] 15 U.S.C. 78f(b).

Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on Competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between NYSE Amex Options market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–48. 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

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 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 the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 4.

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–48 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14974 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69788; File No. SR–BATS–2013–030]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

June 18, 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 June 11, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal for the BATS Options Market (''BATS Options'') to extend through December 31, 2013, the Penny Pilot Program (''Penny Pilot'') in options classes in certain issues (''Pilot Program'') previously approved by the Commission.[3]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.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 these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the Penny Pilot, which was previously approved by the Commission, through December 31, 2013, and to provide a revised date for adding replacement issues to the Pilot Program. The Exchange proposes that any Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2013. The replacement issues will be selected based on trading activity for the six month period beginning December 1, 2012, and ending May 31, 2013.

The Exchange represents that the Exchange has the necessary system capacity to continue to support operation of the Penny Pilot. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. *Statutory Basis*

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[5] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2013. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed in order to continue the Pilot Program, which is a competitive response to analogous programs offered by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the

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[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The rules of BATS Options, including rules applicable to BATS Options' participation in the Penny Pilot, were approved on January 26, 2010. *See* Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031). BATS Options commenced operations on February 26, 2010. The Penny Pilot was extended for BATS Options through June 30, 2013. *See* Securities Exchange Act Release No. 68516 (December 21, 2012), 77 FR 77176 (December 31, 2012) (SR–BATS–2012–048).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[9] However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[11] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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 the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 3.

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BATS–2013–030 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–BATS–2013–030. 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–BATS–2013–030 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14959 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69786; File No. SR–Phlx–2013–64]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

June 18, 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 June 11, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Phlx Rule 1034 (Minimum Increments) to: extend through December 31, 2013, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.[3]

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii)[4] to the extent needed for timely industry-wide implementation of the proposal.

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is italicized and proposed deleted language is [bracketed].

NASDAQ OMX PHLX Rules

Options Rules

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Penny Pilot was established in January 2007 and was last extended in December 2012. *See* Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR–Phlx–2006–74) (notice of filing and approval order establishing Penny Pilot); and 68534 (December 21, 2012), 77 FR 77174 (December 31, 2012) (SR–Phlx–2012–143) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2013).

[4] 17 CFR 240.19b–4(f)(6)(iii).

Rule 1034. Minimum Increments

(a) Except as provided in sub-paragraphs (i)(B) and (iii) below, all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at $3.00 or higher shall have a minimum increment of $.10, and all options on stocks and index options quoting in decimals under $3.00 shall have a minimum increment of $.05.

(i)(A) No Change.

(B) For a pilot period scheduled to expire [June 30]*December 31,* 2013 (the ''pilot''), certain options shall be quoted and traded on the Exchange in minimum increments of $0.01 for all series in such options with a price of less than $3.00, and in minimum increments of $0.05 for all series in such options with a price of $3.00 or higher, except that options overlying the PowerShares QQQ Trust (''QQQQ'')®, SPDR S&P 500 Exchange Traded Funds (''SPY''), and iShares Russell 2000 Index Funds (''IWM'') shall be quoted and traded in minimum increments of $0.01 for all series regardless of the price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity [for]*in* the *previous* six month*s[* period beginning June 1, 2012, and ending November 30, 2012]. The replacement issues may be added to the pilot on the second trading day following [January]*July* 1, 2013.

(C) No Change.

(ii)–(v) No Change.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Phlx Rule 1034 to extend the Penny Pilot through December 31, 2013, and to change the date when delisted classes may be replaced in the Penny Pilot.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2013.

The Exchange proposes to extend the time period of the Penny Pilot through December 31, 2013, and to provide revised dates for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2013. The replacement issues will be selected based on trading activity in the previous six months.[5]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2013 and changes the date for replacing Penny Pilot issues that were deleted to the second trading day following July 1, 2013, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

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.

[5] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. To conform with rules of other exchanges (e.g. NYSE Arca's options rule 6.72), the Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2012 through May 31, 2013. The month immediately preceding the replacement issues' addition to the Pilot Program (i.e. June) would not be used for purposes of the six-month analysis.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2013–64 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–2013–64. 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–2013–64 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14961 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 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 the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69793; File No. SR–BATS–2013–034]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

June 18, 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 June 13, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

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 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 purpose of the proposed rule change is to modify the ''Equities Pricing'' section of its fee schedule effective June 13, 2013, in order to amend the way that the Exchange calculates rebates for adding liquidity to the Exchange. Specifically, the Exchange is proposing to amend the methodology by which it determines the rebate that it will provide to Members for adding liquidity to the Exchange by excluding the last Friday of June from the calculation of both ADV [6] and average daily TCV [7] as they relate to ''Equities Pricing.''

The Exchange currently offers a tiered structure for determining the rebates that Members receive for executions that add liquidity to the Exchange.[8] Under the tiered pricing structure, the Exchange provides different rebates to Members based on a Member's ADV as a percentage of average daily TCV, as well as a possible additional rebate where a Member's order sets the NBBO and that Member meets or exceeds a certain threshold of ADV as a percentage of average daily TCV. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates. Rather, as mentioned above, the Exchange is proposing to modify the ''Equities Pricing'' section of its fee schedule in order to exclude trading activity occurring on the last Friday of June from the calculation of ADV and average daily TCV.

The Exchange is proposing to exclude the last Friday of June from the definition of ADV and TCV because the last Friday of June is the day that Russell Investments reconstitutes its family of indexes (''Russell Rebalance''), resulting in particularly high trading volumes, much of which the Exchange believes derives from market participants who are not generally as active entering the market to rebalance their holdings in-line with the Russell Rebalance. The Exchange believes that trading occurring as a result of the Russell Rebalance can significantly skew the calculation of ADV and TCV. For example, since 2008, on the last Friday in June, the TCV has exceeded the average daily TCV for the preceding trading days in June by approximately 42% on average. The chart below reflects the TCV on the last Friday of June for each year dating to 2008 and compares it to the average daily TCV for the preceding trading days in the month of June.

Russell reconstitution date (RCD)	TCV on RCD	MTD average TCV as of day before RCD	Percent difference
6/29/2012	7,924,340,355	6,833,486,672	15.96
6/24/2011	10,472,502,657	7,237,593,514	44.70
6/25/2010	14,482,717,113	8,981,067,278	61.26
6/26/2009	13,024,518,377	9,597,498,903	35.71
6/27/2008	12,010,692,402	7,835,813,201	53.28

Because of the extremely high volume numbers and abnormally distributed daily volume as a percentage of the TCV on this day, it stands that the ADV as a percentage of average daily TCV can be significantly impacted.

As such, the Exchange believes that eliminating the last Friday of June from the definition of ADV and TCV and thereby eliminating that day from the calculation as it relates to rebates for adding liquidity to the Exchange, will help to eliminate significant uncertainty faced by Members as to their monthly ADV as a percentage of average daily TCV and the rebates that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange. The Exchange further believes that removing this uncertainty will encourage Members to participate in trading on the Exchange during the remaining trading days in June in a manner intended to be incented by the Exchange's fee schedule.

2. *Statutory Basis*

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[9] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures at a particular venue to be unreasonable and/or excessive.

With respect to the proposed changes to the tiered pricing structure for adding liquidity to the Exchange, the Exchange believes that its proposal is reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of rebates for trading in the month of June. The Exchange also believes that its proposal is reasonable because it is not changing

[6] As provided in the ''Equities Pricing'' section of the fee schedule, ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; routed shares are not included in ADV calculation.

[7] As provided in the ''Equities Pricing'' section of the fee schedule ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[8] *See* Securities Exchange Act Release No. 64847 (July 8, 2011), 76 FR 41546 (July 14, 2011) (Notice of filing and immediate effectiveness of proposed rule change related to fees for use of BATS Exchange, Inc., which established tiered rebates based on ADV as a percentage of average daily TCV) (SR–BATS–2011–019).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

the thresholds to become eligible or the dollar value associated with the rebates and, moreover, by eliminating the inclusion of a trading day that would almost certainly lower a Member's ADV as a percentage of average daily TCV, it will make the majority of Members more likely to meet the minimum or higher tier thresholds, which will provide additional incentive to Members to increase their participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the methodology for calculating ADV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV as a percentage of average daily TCV with the day included, the proposal will make June trading rebates more similar to other months as well as to make all Members' cost of trading on the Exchange more predictable, regardless of how the proposal affects their ADV as a percentage of average daily TCV, which in turn will preserve Members' incentives to participate in trading on the Exchange in a manner intended to be incented by the Exchange's fee schedule.

Volume-based tiers such as the liquidity adding tiers maintained by the Exchange have been widely adopted in the equities markets, and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide rebates that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Further, the Exchange believes that a tiered pricing model not significantly altered by the removal of a single known day of atypical trading behavior, which will allow Members to predictably calculate what the costs associated with their trading activity on the Exchange. is reasonable, fair and equitable and not unreasonably discriminatory because it is uniform in application amongst Members and should enable such participants to operate their business without concern of unpredictable and potentially significant changes in expenses.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes will help the Exchange to continue to incentivize higher levels of liquidity at a tighter spread while providing more stable and predictable costs to its Members. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–BATS–2013–034 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–BATS–2013–034. 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–BATS–2013–034 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14966 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69792; File No. SR–NASDAQ–2013–032]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Withdrawal of Proposed Rule Change To Require That Listed Companies Have an Internal Audit Function

June 18, 2013.

On February 20, 2013, The NASDAQ Stock Market LLC (''NASDAQ'') filed with the Securities and Exchange Commission (''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 require that each listed company establish and maintain an internal audit function to provide management and the audit committee with ongoing assessments of that company's risk management processes and system of internal control. The proposed rule change was published for comment in the **Federal Register** on March 8, 2013.[3] On April 18, 2013, the Commission extended the time period in which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change, to June 6, 2013.[4]

The Commission received 42 comment letters on the proposal.[5]

On May 7, 2013, NASDAQ withdrew the proposed rule change (SR–NASDAQ–2013–032).[6]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14957 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 69030 (Mar. 4, 2013), 78 FR 15075.

[4] *See* Securities Exchange Act Release No. 69402, 78 FR 24281 (Apr. 24, 2013).

[5] *See* Letter from William F. Derbyshire, dated Mar. 5, 2013; Letter from Rainer Lenz, Ph.D., dated Mar. 9, 2013; Letter from Raymond A. Link, Chief Financial Officer, FEI Company, dated Mar. 11, 2013; Letter from Ann Marie Kim, dated Mar. 12, 2013; Letter from Jeff A. Killian, Chief Financial Officer, Cascade Microtech, Inc., dated Mar. 14, 2013; Letter from Matthew Hogan, dated Mar. 18, 2013; Letter from Ann Rhoads, Chief Financial Officer, Zogenix, dated Mar. 18, 2013; Letter from Daniel P. Penberthy, Chief Financial Officer, Rand Capital Corporation, dated Mar. 19, 2013; Letter from Jeff Andreson, dated Mar. 19, 2013; Letter from Gary R. Fairhead, dated Mar. 19, 2013; Letter from Roger Hawley, Chief Executive Officer, Zogenix, dated Mar. 20, 2013; Letter from Vernon A. LoForti, Vice President and Chief Financial Officer, InfoSonics Corporation, dated Mar. 20, 2013; Letter from Howard K. Kaminsky, Chief Financial Officer, Sport Chalet, Inc., dated Mar. 21, 2013; Letter from Stanley P. Wirtheim, Chief Financial Officer, Smartpros.Ltd., dated Mar. 25, 2013; Letter from Simon J. Parker, Head of Business Assurance, Innospec Inc., dated Mar. 26, 2013; Letter from John H. Lowry III, Chief Financial Officer; Perceptron, Inc., dated Mar. 27, 2013; Letter from David L. Nunes, President and Chief Executive Officer, Pope Resources, dated Mar. 27, 2013; Letter from Don Tracy, Chief Financial Officer, MGP Ingredients, Inc., dated Mar. 27, 2013; Letter from Vickie Reed, Sr. Director and Controller, Zogenix, Inc., dated Mar. 27, 2013; Letter from Jay Biskupski, Chief Financial Officer, Peregrine Semiconductor Corporation, dated Mar. 27, 2013; Letter from Alan F. Eisenberg, Executive Vice President, Emerging Companies and Business Development, Biotechnology Industry Organization (BIO), dated Mar. 28, 2013; Letter from Mary Kay Fenton, Senior Vice President and Chief Financial Officer, Achillion Pharmaceuticals, Inc., dated Mar. 28, 2013; Letter from Robert D. Shallish, Jr., Executive Vice President—Finance and Chief Financial Officer, CONMED Corporation, dated Mar. 28, 2013; Letter from Dorothy M. Donohue, Deputy General Counsel—Securities Regulation, Investment Company Institute, dated Mar. 28, 2013; Letter from Richard F. Chambers, President and Chief Executive Officer, The Institute of Internal Auditors, dated Mar. 28, 2013; Letter from Daniel C. Regis, Chairman, Cray Inc. Audit Committee, Cray, Inc., dated Mar. 29, 2013; Letter from Kenneth Bertsch, President and Chief Executive Officer, Society of Corporate Secretaries & Governance Professionals, dated Mar. 29, 2013; Letter from Paul R. Oldham, Chief Financial Officer and Vice President Finance Administration, Electro Scientific Industries, dated Mar. 29, 2013; Letter from Joseph D. Hill, Chief Financial Officer, Metabolix, Inc., dated Mar. 29, 2013; Letter from Grant Thornton LLP, dated Mar. 29, 2013; Letter from Michael McConnell, Executive Vice President and Chief Financial Officer, Digimarc Corporation, dated Mar. 29, 2013; Letter from Elizabeth L. Hougen, Chief Financial Officer, Isis Pharmaceuticals, Inc., dated Mar. 29, 2013; Letter from Julia Reigel, Wilson Sonsini Goodrich & Rosati, dated Mar. 29, 2013; Letter from Sharon Barbari, Executive Vice President Finance and Chief Financial Officer, Cytokinetics, Inc., dated Mar. 29, 2013; Letter from Michael G. Zybala, General Counsel, The InterGroup Corporation, dated Apr. 3, 2013; Letter from Ramy R. Taraboulsi, Chairman and Chief Executive Officer, SyncBASE Inc., dated Apr. 6, 2013; Letter from Matthew C. Wolsfeld, Chief Financial Officer, NTIC, dated Apr. 10, 2013; Letter from Barbara Russell, Chief Financial Officer, TOR Minerals International Inc., dated Apr. 17, 2013; Letter from Todd DeZoort, Ph.D., CFE, Professor of Accounting and Professional Advisory Board Fellow, The University of Alabama, and Dana Hermanson, Ph.D., Dinos Eminent Scholar Chair of Private Enterprise, Director of Research, Corporate Governance Center, Kennesaw State University, dated May 10, 2013; Letter from Paul Nester, Treasurer and CFO, RGC Resources, Inc., dated May 13, 2013; Letter from Neil Lerner, Vice President, Finance, Psychemedics Corporation, dated May 20, 2013; and Letter from Robert C. Kirk, dated May 28, 2013.

[6] The Commission notes that NASDAQ stated in its withdrawal that it is withdrawing this proposal so that it may fully consider the comments filed. *See* supra note 5. NASDAQ also stated that it remains committed to the underlying goal of the proposal, to help ensure that listed companies have appropriate processes in place to assess risks and the system of internal controls, and that it intends to file a revised proposal.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69794; File No. SR–BYX–2013–021]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

June 18, 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 June 13, 2013, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant 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 purpose of the proposed rule change is to modify the Exchange's fee schedule effective June 13, 2013, in order to amend the way that the Exchange calculates rebates for removing liquidity from the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

Specifically, the Exchange is proposing to amend the methodology by which it determines the rebate that it will provide to Members for removing liquidity from the Exchange by excluding the last Friday of June from the calculation of both ADV[6] and average daily TCV.[7]

The Exchange currently offers a tiered structure for determining the rebates that Members receive for executions that remove liquidity from the Exchange.[8] Under the tiered pricing structure, the Exchange provides different rebates to Members based on a Member's ADV as a percentage of average daily TCV. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates. Rather, as mentioned above, the Exchange is proposing to modify its fee schedule in order to exclude trading activity occurring on the last Friday of June from the calculation of ADV and average daily TCV.

The Exchange is proposing to exclude the last Friday of June from the definition of ADV and TCV because the last Friday of June is the day that Russell Investments reconstitutes its family of indexes (''Russell Rebalance''), resulting in particularly high trading volumes, much of which the Exchange believes derives from market participants who are not generally as active entering the market to rebalance their holdings in-line with the Russell Rebalance. The Exchange believes that trading occurring as a result of the Russell Rebalance can significantly skew the calculation of ADV and TCV. For example, since 2008, on the last Friday in June, the TCV has exceeded the average daily TCV for the preceding trading days in June by approximately 42% on average. The chart below reflects the TCV on the last Friday of June for each year dating to 2008 and compares it to the average daily TCV for the preceding trading days in the month of June.

Russell reconstitution date (RCD)	TCV on RCD	MTD Average TCV as of day before RCD	% Difference
6/29/2012	7,924,340,355	6,833,486,672	15.96
6/24/2011	10,472,502,657	7,237,593,514	44.70
6/25/2010	14,482,717,113	8,981,067,278	61.26
6/26/2009	13,024,518,377	9,597,498,903	35.71
6/27/2008	12,010,692,402	7,835,813,201	53.28

Because of the extremely high volume numbers and abnormally distributed daily volume as a percentage of the TCV on this day, it stands that the ADV as a percentage of average daily TCV can be significantly impacted.

As such, the Exchange believes that eliminating the last Friday of June from the definition of ADV and TCV and thereby eliminating that day from the calculation as it relates to rebates for removing liquidity from the Exchange, will help to eliminate significant uncertainty faced by Members as to their monthly ADV as a percentage of average daily TCV and the rebates that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange. The Exchange further believes that removing this uncertainty will encourage Members to participate in trading on the Exchange during the remaining trading days in June in a manner intended to be incented by the Exchange's fee schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[9] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures at a particular venue to be unreasonable and/or excessive.

With respect to the proposed changes to the tiered pricing structure for removing liquidity from the Exchange, the Exchange believes that its proposal is reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of rebates for trading in the month of June. The Exchange also believes that its proposal is reasonable because it is not changing the thresholds to become eligible or the dollar value associated with the rebates and, moreover, by eliminating the inclusion of a trading day that would almost certainly lower a Member's ADV as a percentage of average daily TCV, it will make the majority of Members more likely to meet the minimum or higher tier thresholds, which will provide additional incentive to Members to increase their participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the methodology for calculating ADV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV as a percentage of average daily TCV with the day included, the proposal will make June trading rebates more similar to other months as well as to make all Members' cost of trading on the Exchange more predictable, regardless of how the proposal affects their ADV as a percentage of average daily TCV.

Volume-based tiers such as the liquidity removing tiers maintained by the Exchange have been widely adopted in the equities markets, and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and

[6] As provided in the fee schedule, ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; routed shares are not included in ADV calculation.

[7] As provided in the fee schedule ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[8] *See* Securities Exchange Act Release No. 64429 (May 6, 2011), 76 FR 27694 (May 12, 2011) (Notice of filing and immediate effectiveness of proposed rule change related to fees for use of BATS Y-Exchange, Inc., which established tiered rebates based on ADV as a percentage of average daily TCV) (SR–BYX–2011–008).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

provide rebates that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Further, the Exchange believes that a tiered pricing model not significantly altered by a single known day of atypical trading behavior which allows Members to predictably calculate what their costs associated with trading activity on the Exchange will be is reasonable, fair and equitable and not unreasonably discriminatory as it is uniform in application amongst Members and should enable such participants to operate their business without concern of unpredictable and potentially significant changes in expenses.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes will help the Exchange to continue to incentivize higher levels of liquidity at a tighter spread while providing more stable and predictable costs to its Members. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deem fee structures to be unreasonable or excessive.

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–BYX–2013–021 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–BYX–2013–021. 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–BYX–2013–021 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14965 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69782; File No. SR–ISE–2013–38]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Related to Market Maker Risk Parameters and Complex Orders

June 18, 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 June 5, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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 mitigate market maker risk by requiring market makers to enter values in the Exchange-provided risk parameters and by limiting the types of complex orders that can leg-into the regular market. The text of the proposed rule change is available on the Exchange's Web site *www.ise.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

On [sic] Pursuant to ISE Rule 722 and 804, the Exchange currently provides functionality that will automatically remove a market maker's quotes in all series of an options class when certain parameter settings are triggered. Specifically, there are four parameters that can be set by market makers on a class-by-class basis. These parameters are available for market maker quotes in single options series and for market maker quotes in complex instruments on the complex order book. Market makers establish a time frame during which the system calculates: (1) The number of contracts executed by the market maker in an options class; (2) the percentage of the total size of the market maker's quotes in the class that has been executed; (3) the absolute value of the net between contracts bought and contracts sold in an options class, and the absolute value of the net between (a) calls purchased plus puts sold, and (b) calls sold plus puts purchased. The market maker establishes limits for each of these four parameters, and when the limits are exceeded within the prescribed time frame, the market makers quotes are removed.[3]

The purpose of this functionality is to allow market makers to provide liquidity across potentially hundreds of options series without being at risk of executing the full cumulative size of all such quotes before being given adequate opportunity to adjust their quotes. For example, if a market maker can enter quotes with a size of 20 contracts in 150 series of an options class, its total potential exposure is 3000 contracts in the options class. To mitigate the risk of executing all 3000 contracts without evaluating its positions, the market maker risk functionality will automatically remove its quotes in all series of the options class after it has executed a specified number of contracts (*e.g.,* 100) in series of that options class during a specified time period (*e.g.,* 5 seconds).

To assure that all quotations are firm for their full size, the parameter calculations occur after an execution against a market maker's quote takes place. For example, if a market maker has set a parameter of 100 contracts during a 5 second interval for an options class, and has executed a total of 95 contracts in the options class within the previous 3 seconds, a quote in a series of that class with a size of 20 contracts continues to be firm for all 20 contracts. In this example, an incoming order could execute all 20 contracts of the quote, and following the execution, the total size parameter would add 20 contracts to the running total of 95. Since the total size executed within the 5 second time frame exceeds the 100 contracts established by the market maker for the options class, all of the market maker's quotes in the options class would be removed. The market maker would then enter new quotes in the class.

Use of these risk management tools has always been voluntary under the rules. Similarly, from a technical perspective, market makers currently do not need to enter any values into the applicable fields, and thus effectively can choose not to use these tools. The Exchange proposes to amend the rule to make it mandatory for market makers to enter values into all four of the quotation risk management parameters for all options classes in which it enters quotes. The purpose of the rule change is to prevent market makers from inadvertently entering quotes without risk-management parameters. In this respect, the Exchange notes that all ISE market makers currently use the parameters when entering quotes. However, it is possible that a market maker could inadvertently enter quotes without populating one or more of the risk parameters, resulting in the member being exposed to much more risk than it intended. Accordingly, ISE market makers have requested that the Exchange modify the trading system to reject quotes if there are any missing risk management values for the options class.

While entering values into the quotation risk parameters will be mandatory to prevent an inadvertent exposure to risk, the Exchange notes that market makers who prefer to use their own risk-management systems can enter values that assure the Exchange-provided parameters will not be triggered.[4] Accordingly, the proposal does not require members to manage their risk using the Exchange-provided tools.

The Exchange also proposes to amend Rule 722 to limit a potential source of unintended market maker risk related to how the market maker risk parameters under Rule 804 are calculated when complex orders leg-into the regular market.[5] As discussed above, by checking the risk parameters following each execution in an options series, the risk parameters allow market makers to provide liquidity across multiple series of an options class without being at risk of executing the full cumulative size of all such quotes. This is not the case, however, when a complex order legs-into the market. Because the execution of each leg is contingent on the execution of the other legs, the execution of all the legs in the regular market is processed as a single transaction, not as a series of individual transactions.

For example, if individual orders to buy 10 contracts for the Jan 30 call, Jan 35 call, Jan 40 call, Jan 45, and Jan 50 calls are entered, each is processed as it is received and the market maker quotation parameters are calculated following the execution of each 10-contract order. However, if a complex order to buy all five of these strikes ten times is entered and is executed against bids and offers for the individual series, the market maker parameters for quotes in the regular market are calculated following the execution of all 50 contracts. In the example discussed previously, when the market maker had set a limit of 100 contracts for the options class and had executed 95 contracts, the amount by which the next transaction might exceed 100 is limited to the largest size of its quote in a single series of the options class. In that example, since the largest size the market maker was quoting in any one series was 20 contracts, the market maker could not have exceeded the 100 contract trigger by more than 15

[3] The Exchange is proposing certain non-substantive changes to the text of Rules 722 and 804 for clarity. The changes shorten the first sentence in Rule 804 by deleting ''if the market maker trades, in the aggregate across all series of an options class during a specified time period'' and to delete ''(established by the market maker), within a time frame specified by the market maker'' as the text might be confusing in its current form and is redundant with other text within the Rule. To assure clarity, the Exchange also proposes to specify that the first parameter is a number of ''total'' contracts ''in the class,'' and to specify that the fourth parameter is a net value based on puts and calls purchased and sold ''in the class.'' Finally, the Exchange proposes to use a uniform construction of ''the specified . . .'' for each of the four parameters. The same clarifying changes are also proposed with respect to Rule 722, as the language in both rules is identical except for the fact that Rule 722 applies to market maker quotes for complex orders. The Exchange is not proposing to alter the operation of the functionality, other than to make use of the parameters mandatory.

[4] For example, a market maker could set the value for the total number of contracts executed in a class at a level that exceeds the total number of contracts the market maker actually quotes in an options class.

[5] Pursuant to ISE Rule 722(b)(3)(ii), complex orders may be executed against bids and offers on the Exchange for the individual legs of the complex order, provided the complex order can be executed while maintaining a permissible ratio by such bids and offers.

contracts (95 + 20 = 115). With respect to a complex order with five legs 20 times, the next transaction against the market maker's quotes potentially could be as large as 100 contracts (depending upon whether there are other market participants same price), creating the potential in this example that the market maker could exceed the 100 contract limit by 95 contracts (95 + 100 = 195) instead of 15.

As the example demonstrates, the legging-in of complex orders presents higher risk to market makers as compared to regular orders being entered in multiple series of an options class in the regular market as it allows market makers to exceed their parameters by a greater number of contracts. Because this risk is directly proportional to the number of legs associated with a complex order, ISE market makers have requested that the Exchange prevent complex orders from legging into the market if they have a large number of legs. The Exchange therefore proposes to limit the legging functionally to complex orders with no more than either two or three legs, as determined by the Exchange on a class basis.[6] The Exchange notes in this respect that over 85% of all complex orders have only two legs and that very few complex orders are entered with more than three legs. The Exchange believes that the potential risk to market makers in the regular market of allowing orders with more than three legs (in some cases more than two legs) to leg-into the market, far out-weighs the potential benefit of offering such functionality to a very limited number of orders.

Complex orders with more than three legs (in some cases more than two legs) that could leg into the market except for the proposed limitation will be available for execution on the complex order book. The Exchange notes in this respect that the execution priority rules contained in ISE Rule 722(b)(2) often prevent the execution of complex orders that might otherwise be executable. Specifically, Rule 722(b)(2) provides that the legs of a complex order cannot be executed at the same price as a Priority Customer Order in the regular market unless another leg of the order is executed at a price that is better than the best price in the regular market.[7] In other words, if there is a Priority Customer Order on the book in one or more of the series of a complex order, the net price of the complex order has to improve upon the price that would be available if the complex order legged-into the market. Thus, currently there can be complex orders resting on the book that cannot leg-into the market because the permissible ratio cannot be satisfied by the bids and offers in the regular market or because there are Priority Customer Orders in the regular market in one or more of the series of the complex order that prevent its execution. Accordingly, the Exchange believes that preventing orders with more than three legs (in some cases more than two legs) from legging-into the market does not create any unusual circumstances on the complex order book. The Exchange further notes that priority of complex orders on the complex order book is not impacted by the proposed rule change.[8]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the the [sic] Act[9] in general, and furthers the objectives of Section 6(b)(5) of the Act[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and 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 requiring market makers to enter values into the risk parameters provided by the Exchange will not be unreasonably burdensome, as all ISE market makers currently utilize the functionality. Moreover, the Exchange is proposing this rule change at the request of its market makers to reduce their risk of inadvertently entering quotes without populating the risk parameters. As discussed above, the Exchange will be modifying the trading system to automatically reject quotations unless the parameters are populated with values, which will protect market makers from inadvertent exposure to excessive risk. Reducing such risk will enable market makers to enter quotations with larger size, which in turn will benefit investor through increased liquidity for the execution of their orders. Such increased liquidity benefits investors because they receive better prices and because it lowers volatility in the options market.

The Exchange also believes it is reasonable to limit the types of complex orders that are eligible to leg-into the market. In this respect, the Exchange notes that the vast majority of complex orders consist of only two legs, which will be unaffected by this rule change. Moreover, the Exchange believes that the potential risk of continuing to offer legging functionality for complex orders with more than three legs (in some cases with more than two legs) limits the amount of liquidity that market makers are willing to provide in the regular market. In particular, market makers may reduce the size of their quotations in the regular market because they are at risk of executing the cumulative size of their quotations across multiple options series without an opportunity to adjust their quotes. Accordingly, reducing market maker risk in the regular market by limiting the legging functionality to orders with no more than three legs (in some cases with no more than two legs) will benefit investors by encouraging additional liquidity in the regular market. This benefit to investors far exceeds the small amount of potential liquidity provided by the few complex orders that have more than three legs (in some case more than two legs).

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. The proposed rule change to make it mandatory for market makers to populate the quotation risk management parameters is being made at the request of ISE market makers to prevent the inadvertent entry of quotes without risk-management parameters. Market makers who prefer to use their own risk-management systems can enter out-of-range values so that the Exchange-provided parameters will not be triggered. Accordingly, the proposal does not require members to manage their risk using an Exchange-provided tool. The proposed change to limit legging functionality to complex orders of no more than three legs (in some cases no more than two legs) will reduce risk to market makers that are quoting in the regular market. As such, the proposal may encourage market makers to increase the size of their quotations, thereby adding liquidity on the Exchange.

[6] The Exchange will issue a circular to members identifying the options classes for which legging is limited to complex orders with two legs and those for which legging is limited to complex order with three legs. The Exchange will provide members with reasonable notice prior to change the limit applicable to an options class.

[7] Pursuant to ISE Rule 100(a)(37A) and (37B), a Priority Customer Order is an order for the account of a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[8] For example, if there are multiple complex orders for the same strategy at the same price with four or more legs, they will be executed pursuant to Rule 722(b)(3) (*i.e.,* in time priority or pro-rata bases on size (with or without Priority Customer priority)).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the publication date of this notice or within such longer period (1) as the Commission may designate up to 45 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (2) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve or disapprove such Proposed Rule Change; or

(b) institute proceedings to determine whether the Proposed Rule Change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2013–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–ISE–2013–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2013–38 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14962 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69784; File No. SR–BX–2013–039]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

June 18, 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 June 11, 2013, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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

BX is filing with the Commission a proposal to amend Chapter VI, Section 5 (Minimum Increments) to: extend through December 31, 2013, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.[3]

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii)[4] to the extent needed for timely industry-wide implementation of the proposal.

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is italicized and proposed deleted language is [bracketed].

NASDAQ OMX BX Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on BX Options. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1) If the options series is trading at less than $3.00, five (5) cents;

(2) If the options series is trading at $3.00 or higher, ten (10) cents; and

(3) For a pilot period scheduled to expire on [June 30] *December 31,* 2013, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's Web site. The Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–94.

[3] The Penny Pilot was established in June 2012 and extended in December 2012. *See* Securities Exchange Act Release Nos. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR–BX–2012–030) (order approving BX option rules and establishing Penny Pilot); and 68518 (December 21, 2012), 77 FR 77152 (December 31, 2012) (SR–BX–2012–076) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2013).

[4] 17 CFR 240.19b–4(f)(6)(iii).

may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity [for] *in* the *previous* six months *[*period beginning June 1, 2012, and ending November 30, 2012]. The replacement issues may be added to the pilot on the second trading day following [January] *July* 1, 2013.

(4) No Change.

(b) No Change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Chapter VI, Section 5 to extend the Penny Pilot through December 31, 2013, and add a procedure for replacing any Penny Pilot issues that have been delisted.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2013.

The Exchange proposes to extend the time period of the Penny Pilot through December 31, 2013, and to provide a procedure for adding classes that have been delisted from the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2013. The replacement issues will be selected based on trading activity in the previous six months.[5]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2013 and changes the date for replacing Penny Pilot issues that were deleted to the second trading day following July 1, 2013, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[12] However,

[5] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. To conform with rules of other exchanges (e.g. NYSE Arca's options rule 6.72), the Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2012 through May 31, 2013. The month immediately preceding the replacement issues' addition to the Pilot Program (i.e. June) would not be used for purposes of the six-month analysis.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 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 the text of the proposed rule change, at least five business days prior to the date

pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2013–039 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–BX–2013–039.* 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–BX–2013–039 and should be submitted on or before July 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14958 Filed 6–21–13; 8:45 am]

BILLING CODE 8011–01–P

of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2013–0004]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Bureau of the Fiscal Service (Fiscal Service))—Match Number 1304

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that will expire on September 30, 2013.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with Fiscal Service.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Kirsten J. Moncada,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With the Bureau of the Fiscal Service (Fiscal Service)

A. Participating Agencies

SSA and Fiscal Service.

B. Purpose of the Matching Program

The purpose of this matching program is to set forth the conditions, terms, and safeguards under which Fiscal Service will disclose ownership of Savings Securities to us. This disclosure will provide us with information necessary to verify an individual's self-certification of his/her financial status to determine eligibility for low income subsidy assistance (Extra Help) in the Medicare Part D prescription drug benefit program established under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173).

C. Authority for Conducting the Matching Program

The legal authority for this match is 42 U.S.C. 1395w–114 of the Social Security Act, which requires our Commissioner to verify the eligibility of an individual who seeks to be considered as an Extra Help eligible individual under the Medicare Part D prescription drug benefit program and who self-certifies his or her income, resources, and family size.

D. Categories of Records and Persons Covered by the Matching Program

We provide Fiscal Service with the Social Security number for each individual for whom we request Savings Securities ownership information. Fiscal Service discloses to us the following data for Definitive Records (paper/physical securities): The denomination of the security, the serial number, the series, the issue date of the security, the current redemption value, and the return date of the finder file. Fiscal Service discloses to us the following data for Book Entry Records (securities maintained as a computer record): The purchase amount, the account number and confirmation number, the series, the issue date of the security, the current redemption value, and the return date of the finder file.

E. Inclusive Dates of the Matching Program

The effective date of this matching program is October 1, 2013; provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2013–14980 Filed 6–21–13; 8:45 am]

BILLING CODE 4191–02–P

TENNESSEE VALLEY AUTHORITY

Establishment of Regional Energy Resource Council and Solicitation of Nominations for Membership

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of Establishment of the Regional Energy Resource Council and Solicitation of Nominations for Membership.

SUMMARY: Pursuant to the Tennessee Valley Authority Act of 1933, as amended, and the Federal Advisory Committee Act (5 U.S.C. Appendix 2), TVA announces the establishment of the Regional Energy Resource Council. The Council will advise TVA on its energy resource activities and the priorities among competing objectives and values. Consistent with the Federal Advisory Committee Act, the duration of this Council is for two years, unless renewed by TVA. This notice also requests nominations for membership on the Council.

DATES: Please submit all nominations for membership on or before July 15, 2013.

ADDRESSES: All nominations should be submitted to Joe Hoagland, TVA Designated Federal Officer, 400 West Summit Hill Drive, Knoxville, TN 37902. Nominations may also be emailed to *RERC@tva.gov.*

FOR FURTHER INFORMATION CONTACT: Beth Keel, 400 West Summit Hill Drive, WT–11 B, Knoxville, Tennessee 37902, (865) 632–6113, *bakeel@tva.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Regional Energy Resource Council is governed by the Federal Advisory Committee Act (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees. The Council will advise TVA on its energy resource activities and the priorities among competing objectives and values. TVA's energy resource activities include constructing and operating various supply-side resources, including fossil-fueled power plants, nuclear plants, hydroelectric dams, and renewable resources; the development and management of demand-side resources, including energy efficiency; the design, construction, and operation of power delivery systems; and the integration of all of these energy resources into plans for meeting future demands for electricity in the TVA region.

II. Structure

The Council will consist of up to 20 members. Members of the Council will be chosen to ensure objectivity and balance in representation of a broad range of diverse views and interests, including environmental, industrial, business, consumer, educational, and community leadership interests. All members of the Council shall be persons possessing demonstrated professional or personal qualifications relevant to TVA's energy resource activities.

The Governors of Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia will each be asked to nominate a member to the Council, taking into account the need for a balanced and diverse membership. The Tennessee Valley Public Power Association and the Tennessee Valley Industrial Committee will each be asked to nominate members to represent the interests of distributors of TVA power and direct-served customers of TVA, respectively. The Council will also include at least two members representing each of the following interests: Non-governmental entity focused on environmental and/or energy issues, chamber of commerce or economic and community development, and academic or research center. TVA will appoint up to three additional members to ensure a balanced representation of a broad range of views. Members shall be considered representatives of the group, organization, or other entity identified by TVA in making the membership appointment.

In order to capture a broad range of fresh perspectives and advice in subsequent terms of the Council, TVA shall appoint not more than 14 of the Council members from the stakeholders who served on the Council during its previous term. This restriction shall not limit the ability of the Governors to re-nominate their appointees who served on the previous term of the Council.

Meetings of the Council will be held approximately twice per year. As necessary, subcommittees composed of members of the parent Council may be established to perform specific functions within the Council's jurisdiction. Subcommittees of the Council may meet more frequently than the parent Council. The Designated Federal Officer or Alternate Designated Federal Officer shall call all meetings of the Council and of any subcommittees, approve the agenda for each meeting, and be present at all meetings. The first meeting of the Regional Energy Resource Council is anticipated to take place in September, 2013.

Each member shall be appointed for a term of two years. Whenever a vacancy occurs, TVA may appoint a replacement for the remainder of the applicable term. TVA shall designate one Council member as the Council Chair.

III. Compensation

Each member of the Council shall serve without compensation. Members engaged in the performance of their Council duties away from their homes or regular places of business may be allowed reimbursement for travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703.

IV. Nominations

TVA is seeking nominations for membership on the Council to represent the following interests: (1) Non-governmental entity focused on environmental and/or energy issues, (2) chamber of commerce or economic and community development, and (3) academic or research center. TVA also is seeking nominations for membership on the Council to fill the three at-large membership positions designed to ensure balanced representation of views.

TVA will consider nominations of all qualified individuals to ensure that the Council includes members with professional or personal experience relevant to TVA's energy resource activities. Individuals may nominate themselves or other individuals, and associations and organizations may nominate one or more qualified persons for membership on the Council. Nominations shall state that the nominee is willing to serve as member of the Council. Potential candidates may be asked to provide detailed information concerning financial interests, consultancies, research grants, and/or contracts that might be affected by recommendations of the Council to permit evaluation of possible sources of conflicts of interest.

A nomination package should include the following information for each nominee: (1) A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (i.e., what specific attributes recommend him/her for service in this capacity), and the nominee's field(s) of expertise; (2) a biographical sketch of the nominee and copy of his/her curriculum vitae; and (3) the name, return address, email address, and daytime telephone number of the nominator. TVA encourages nominations of appropriately qualified female, minority, or disabled candidates. TVA also seeks geographic diversity in the composition of the Council. All nomination information should be provided in a single, complete package by July 15, 2013. All nominations for membership should be sent to Joe Hoagland, TVA Designated Federal Officer, at the address provided above.

Dated: June 18, 2013.

Joseph J. Hoagland,

Senior Vice President, Policy & Oversight, Tennessee Valley Authority.

[FR Doc. 2013–15052 Filed 6–21–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Request for Transit Rail Advisory Committee for Safety (TRACS) Nominations

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice to solicit TRACS nominees.

SUMMARY: The Federal Transit Administration (FTA) is seeking nominations for individuals to serve on the Transit Rail Advisory Committee for Safety (TRACS). The Advisory Committee meets at least twice a year to advise FTA on transit safety issues. The recommendations of the TRACS will help FTA develop policies, practices, and regulations for enhancing safety across all modes of public transportation as FTA implements new statutory authority for public transportation safety oversight.

FOR FURTHER INFORMATION CONTACT: Bridget Zamperini, Office of Transit Safety and Oversight (TSO), Federal Transit Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 (telephone: 202–366–0306; or email: *Bridget.Zamperini@dot.gov*).

SUPPLEMENTARY INFORMATION:

I. Background

On December 8, 2012, TRACS was chartered by the Secretary of the Department of Transportation (the Secretary) for the purpose of providing a forum for the development, consideration, and communication of information from knowledgeable and independent perspectives regarding modes of public transit safety. Currently, the TRACS committee consists of members representing key constituencies affected by rail transit safety requirements, including rail safety experts, research institutions, industry associations, labor unions, transit agencies, and State Safety Oversight Agencies.

With passage of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, (2012), FTA's safety oversight authority has been expanded to include all modes of public transportation. Therefore, TRACS membership will be reconfigured to reflect a broader range of safety constituents that is more representative of the public transit industry. To that end, the FTA Administrator invites nominations from members representing key constituencies affected by rail transit or bus transit safety requirements, including labor unions, rail and bus transit agencies, paratransit service providers (both general public and Americans with Disabilities Act complementary service), State Safety Oversight Agencies, State Departments of Transportation, transit safety research organizations and others from the rail transit safety or bus transit safety industry.

The TRACS meets approximately twice a year, usually in Washington, DC, but may meet more frequently or via conference call as needed. Members serve at their own expense and receive no salary from the Federal Government. FTA retains authority to review the participation of any TRACS member and to recommend changes at any time. TRACS meetings will be open to the public and one need not be a member of TRACS to attend. Interested parties may view the information about the committee at: *http://www.fta.dot.gov/about/13099.html*.

II. Nominations

Qualified individuals interested in serving on this committee are invited to apply to FTA for appointment. The FTA Administrator will recommend nominees for appointment by the Secretary. Appointments are for two-year terms; however, the Secretary may reappoint a member to serve additional terms. Nominees should be

knowledgeable of trends or issues related to rail transit and bus transit safety. Along with their experience in the bus transit or rail transit industry, nominees will also be evaluated on factors including leadership and organizational skills, region of country represented, diversity characteristics, and balance of industry representation.

Each nomination should include the nominee's name and organizational affiliation, a cover letter describing the nominee's qualifications and interest in serving on the committee, a curriculum vitae or resume of the nominee's qualifications, and contact information including the nominee's name, address, phone number, fax number, and email address. Self-nominations are acceptable. FTA prefers electronic submissions for all applications to *TRACS@dot.gov.* Applications will also be accepted via U.S. mail at the address identified in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

In the near-term, FTA expects to nominate up to five (5) representatives from the transit bus safety community for immediate TRACS membership. In order to be considered for this round of appointments, applications should be submitted by August 30, 2013. Additionally, in order to fill any future vacancy that may arise, nominations from persons representing key constituencies affected by rail transit or bus transit safety requirements, as noted in section I above, will continue to be accepted after August 30, 2013.

The Secretary, in consultation with the FTA Administrator, will make the final decision regarding committee membership selections.

Issued on: June 19, 2013.

Peter Rogoff,

Administrator.

[FR Doc. 2013–15053 Filed 6–21–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. USCG–2013–0363]

Deepwater Port License Application: Liberty Natural Gas LLC, Port Ambrose Deepwater Port

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of Intent; Notice of Public Meeting; Request for Comments.

SUMMARY: The Maritime Administration (MarAd), in coordination with the U.S. Coast Guard (USCG), will prepare an environmental impact statement (EIS) as part of the environmental review of the Port Ambrose Deepwater Port License Application. The application describes an offshore natural gas deepwater port facility that would be located approximately 17 nautical miles southeast of Jones Beach, New York, 24 nautical miles east of Long Branch, New Jersey, and about 27 nautical miles from the entrance to New York Harbor in a water depth of approximately 103 feet. Publication of this notice begins a 30 day scoping process that will help identify and determine the scope of environmental issues to be addressed in the EIS. This notice requests public participation in the scoping process, provides information on how to participate, and announces informational open houses and public meetings in New York and New Jersey. Pursuant to the criteria provided in the Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.* (the Act), both New Jersey and New York are the Adjacent Coastal States for this application.

DATES: There will be two public scoping meetings held in connection with the application. The first public meeting will be held in Long Beach, New York on July 9, 2013 from 6 p.m. to 8 p.m. The second public meeting will be held in Edison, New Jersey on July 10, 2013 from 6 p.m. to 8 p.m. Both public meetings will be preceded by an open house from 4:30 p.m. to 5:30 p.m.

Each of the public meetings may end later than the stated time, depending on the number of persons wishing to speak. Additionally, materials submitted in response to the request for comments on the license application must reach the Docket Management Facility as detailed below, by July 14, 2013.

ADDRESSES: The open house and public meeting in Long Beach, New York will be held at the Allegria Hotel, 80 West Broadway, Long Beach, New York 11561, phone 516–889–1300. Free street parking is available and the parking lot at the Long Island Railroad Long Beach Train Station near Park Place and Park Avenue approximately 1200 feet from the hotel is available from 5 p.m. to 5 a.m. In addition, there is free valet parking at the hotel for those that want and/or need to use this service. The open house and public meeting in Edison, New Jersey will be held at the New Jersey Convention and Exposition Center, 97 Sunfield Avenue, Edison, New Jersey 08837, phone 732–417–1400. Free parking is available at the center.

The license application, comments and associated documentation, and Draft and Final EISs (when published) are available for viewing at the Federal Docket Management System (FDMS) Web site: *http://www.regulations.gov* under docket number USCG–2013–0363.

Docket submissions for USCG–2013–0363 should be addressed to: Department of Transportation, Docket Management Facility, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

The Federal Docket Management Facility accepts hand-delivered submissions, and makes docket contents available for public inspection and copying at the above address between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Facility telephone number is 202–366–9329, the fax number is 202–493–2251, and the Web site for electronic submissions or for electronic access to docket contents is *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Roddy Bachman, U.S. Coast Guard, telephone: 202–372–1451, email: *Roddy.C.Bachman@uscg.mil,* or Tracey Ford, Maritime Administration, telephone: 202–366–0321, email: *Tracey.Ford@dot.gov.* For questions regarding viewing the Docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Meeting and Open House

You are invited to learn about the proposed deepwater port at any of the above informational open houses, and to comment at any of the above public meetings on environmental issues related to the proposed deepwater port. Your comments will help us identify and refine the scope of the environmental issues to be addressed in the EIS.

Speaker registration will be available at the door. Speakers at the public scoping meeting will be recognized in the following order: Elected officials, public agencies, individuals or groups in the sign-up order, and anyone else who wishes to speak.

In order to allow everyone a chance to speak at a public meeting, speaker time may be limited, meeting hours may be extended, or both. You must identify yourself, and any organization you represent, by name. Your remarks will be recorded or transcribed for inclusion in the public docket.

You may submit written material at a public meeting, either in lieu of or in addition to speaking. Written material

must include your name and address, and will be included in the public docket.

Public docket materials will be made available to the public on the Federal Docket Management Facility (see Request for Comments).

Public meeting locations are wheelchair-accessible. If you plan to attend an open house or public meeting, and need special assistance such as sign language interpretation or other reasonable accommodation, please notify the USCG (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comments or other relevant information on environmental issues related to the proposed deepwater port. Note that the public meeting is not the only opportunity you have to comment. In addition to, or in lieu of attending a meeting, you can submit comments to the Federal Docket Management Facility during the public comment period (see **DATES**). We will consider all comments and material received during the comment period.

Submissions should include:

- Docket number USCG–2013–0363.
- Your name and address.

Submit comments or material using only one of the following methods:

- Electronic submission to the Federal Docket Management Facility, *http://www.regulations.gov*.
- Fax, mail, or hand delivery to the Federal Docket Management Facility (see **ADDRESSES**). Faxed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. If you mail your submission and want to confirm it reaches the Facility, include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the FDMS Web site (*http://www.regulations.gov*), and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Use Notice that is available on the FDMS Web site, and the Department of Transportation Privacy Act Notice that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477), see PRIVACY ACT. You may view docket submissions at the Department of Transportation Docket Management Facility or electronically on the FDMS Web site (see **ADDRESSES**).

Background

Information about deepwater ports, the statutes, and regulations governing their licensing including the application review process, and the receipt of the current application for the proposed Port Ambrose liquefied natural gas (LNG) Deepwater Port appears in the **Federal Register** on June 14, 2013, 78 FR 36014. The ''Summary of the Application'' from that publication is reprinted below for your convenience.

Consideration of a deepwater port license application includes review of the proposed deepwater port's natural and human environmental impacts. The USCG is the lead agency for determining the scope of this review, and in this case USCG has determined that review must include preparation of an EIS. This notice of intent is required by 40 CFR 1501.7, and briefly describes the proposed action, possible alternatives, and our proposed scoping process. You can address any questions about the proposed action, the scoping process, or the EIS to the U.S. Coast Guard project manager identified in **FOR FURTHER INFORMATION CONTACT**.

Proposed Action and Alternatives

The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in ''Summary of the Application'' below. The alternatives to licensing the proposed port are: (1) licensing with conditions (including conditions designed to mitigate environmental impact), or (2) denying the application, which for purposes of environmental review is the ''no-action'' alternative.

Scoping Process

Public scoping is an early and open process for identifying and determining the scope of issues to be addressed in the EIS. Scoping begins with this notice, continues through the public comment period (see **DATES**), and ends when the USCG has completed the following actions:

- Invites the participation of Federal, state, and local agencies, any affected Indian tribe, the applicant, and other interested persons;
- Determines the actions, alternatives, and impacts described in 40 CFR 1508.25;
- Identifies and eliminates, from detailed study, those issues that are not significant or that have been covered elsewhere;
- Allocates responsibility for preparing EIS components;
- Indicates any related environmental assessments or environmental impact statements that are not part of the EIS;
- Identifies other relevant environmental review and consultation requirements;
- Indicates the relationship between timing of the environmental review and other aspects of the application process; and
- At its discretion, exercises the options provided in 40 CFR 1501.7(b).

Once the scoping process is complete, the USCG will prepare a draft EIS in conjunction with MarAd. Also, MarAd will publish a **Federal Register** notice announcing public availability of the draft EIS. (If you want that notice to be sent to you, please contact the Coast Guard project manager identified in **FOR FURTHER INFORMATION CONTACT**.) You will have an opportunity to review and comment on the draft EIS. The USCG will consider those comments, and then prepare the final EIS. As with the draft EIS, we will announce the availability of the final EIS, and once again give you an opportunity for review and comment and include final public hearings as required by the Act.

Summary of the Application

Liberty Natural Gas, LLC is proposing to construct, own, and operate a liquefied natural gas (LNG) deepwater port, known as Port Ambrose, located in the New York Bight. The Port Ambrose facility will be located at a different proposed location and include a different design than the previous deepwater port license application submitted by Liberty Natural Gas, LLC in 2010. Port Ambrose would consist of two Submerged Turret Loading Buoys (STL Buoys) in Federal waters approximately 17 nautical miles southeast of Jones Beach, New York, approximately 24 nautical miles east of Long Branch, New Jersey, and about 27 nautical miles from the entrance to New York Harbor, in a water depth of approximately 103 feet.

LNG would be delivered from purpose-built LNG regasification vessels (LNGRVs), vaporized on site and delivered through the STL Buoys, flexible riser/umbilical, subsea manifold and lateral pipelines to a buried 19 nautical mile subsea Mainline connecting to the existing Transco Lower New York Bay Lateral in New York State waters approximately 2.2 nautical miles south of Long Beach, New York and 13 nautical miles east of New Jersey. The buoys would be lowered to rest on a landing pad when not in use and would also include a pile-anchored mooring array.

STL Buoy 1 is located at Latitude: 40°19′24.61″ N and Longitude: 73°25′45.33″ W. STL Buoy 2 is located at Latitude: 40°20′09.26″ N and

Longitude 73°23′51.92″ W. The Port components would fall in the following U.S. Outer Continental Shelf (OCS) lease blocks:

Buoy 1 (6708, 6709, 6758); Buoy 2 (6709); Lateral 1 (6708); Lateral 2 (6708, 6709); ''Y'' Assembly (6708); Mainline Pipeline (6708, 6658, 6657, 6607, 6606, 6556, 6555, 6554, 6504 and 6503).

The 145,000 cubic meter LNGRVs would have onboard closed-loop vaporization and metering and odorant capability. Each vessel will have three vaporization units capable of maximum send-out of 750 million standard cubic feet per day (MMscfd) (maximum pipeline system flow rate is 660 MMscfd with two buoys) with annual average expected to be 400 MMscfd. The LNGRVs have been designed to utilize a ballast water cooling system that will entirely re-circulate onboard the vessel during Port operations, eliminating vessel discharges associated with regasification while at the Port. Deliveries through Port Ambrose would be focused during peak demand winter and summer months and it is anticipated that approximately 45 deliveries will occur each year.

As proposed, the LNGRVs would access the port inbound from the Hudson Canyon to Ambrose Traffic Lane and depart via the Ambrose to Nantucket Traffic Lane. MarAd and USCG are aware that Port Ambrose falls within the proposed area of interest for the Long Island—New York City Offshore Wind Collaborative wind energy project. This project will be acknowledged and considered in the processing of the Port Ambrose application and National Environmental Policy Act (NEPA) analysis.

If approved, the majority of the port and pipeline construction and installation would occur in 2015, with commissioning in December 2015.

In addition, pipelines and structures such as the STL Buoy moorings may require permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act which are administered by the Army Corps of Engineers (USACE).

Port Ambrose may also require permits from the Environmental Protection Agency (EPA) pursuant to the provisions of the Clean Air Act, as amended, and the Clean Water Act, as amended.

The new pipeline will be included in the NEPA review as part of the deepwater port application process. The EPA and the USACE among others, are cooperating agencies and will assist in the NEPA process as described in 40 CFR 1501.6; may participate in the scoping meetings; and will incorporate the EIS into their permitting processes. Comments sent to the EPA or USACE will also be incorporated into the DOT docket and EIS to ensure consistency with the NEPA Process.

Should a license be issued, the deepwater port would be designed, fabricated, constructed, commissioned, maintained, inspected, and operated in accordance with applicable codes and standards and with USCG oversight as regulated under Title 33, Code of Federal Regulations (CFR), subchapter NN-Deepwater Ports, parts 148, 149, and 150. This also includes waterways management and regulated navigation areas, maritime safety and security requirements, risk assessment, and compliance with domestic and international laws and regulations for vessels that may call on the port.

Privacy Act

The electronic form of all comments received into the FDMS can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The DOT Privacy Act Statement can be viewed in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or by visiting *http://www.regulations.gov*.

(Authority 49 CFR 1.93)

Dated: June 19, 2013.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–15008 Filed 6–21–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0117; Notice 2]

Mazda North American Operations, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition.

SUMMARY: Mazda North American Operations (MNAO),[1] on behalf of Mazda Motor Corporation of Hiroshima, Japan (Mazda),[2] has determined that certain Mazda brand motor vehicles manufactured between 2000 and 2012 for sale or lease in Puerto Rico, do not fully comply with paragraph S4.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 225, *Child Restraint Anchorage Systems.* MNAO has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports,* dated June 21, 2012.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, MNAO 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 MNAO's petition was published, with a 30-day public comment period, on September 28, 2012 in the **Federal Register** (77 FR 59703). 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–2012–0117.''

Contact Information: For further information on this decision contact Mr. Ed Chan, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 493–0335.

Vehicles involved: Affected are approximately 60,509 Mazda brand motor vehicles manufactured between 2000 and 2012 for sale or lease in Puerto Rico.

Rule Text: Section § 4.1 of FMVSS No. 225 specifically states:

§ 4.1 Each Tether anchorage and each child restraint anchorage system installed, either voluntarily or pursuant to this standard, in any new vehicle manufactured on or after September 1, 1999, shall comply with the configuration, location, marking and strength requirements of this standard. The vehicle shall be delivered with written information, in English, on how to appropriately use those anchorages and systems.

Summary of MNAO's Analysis: MNAO explains that the noncompliance is that certain Mazda brand motor vehicles sold in Puerto Rico were not delivered with instructions on the use of child restraint tether anchorages written in English. The instructions were only provided in Spanish as part of the Spanish language version of the vehicle owner's manual provided with the vehicles at first sale. No English version owner's manuals were provided.

MNAO believes that while the noncompliant motor vehicles were delivered to Puerto Rico with owner's manuals written only in the Spanish language and did not include a written

[1] Mazda North American Operations is a U.S. company that manufacturers and imports motor vehicles.

[2] Mazda Motor Corporation is a Japanese company that manufacturers motor vehicles.

version in the English language as required by FMVSS No. 225, it is inconsequential as it relates to motor vehicle safety for the following reasons:

1. All affected owner's manuals contain accurate Spanish translations of the information.

2. In Puerto Rico, Spanish is the universally prevalent language. According to a U.S. Census done by the Census Bureau in 2010, 95.7% of the Puerto Rico's population speaks Spanish as their primary language.

3. NHTSA also has a long history of encouraging the dissemination of product information in languages that are useful for the vehicle owners. (See example *http://isearch.nhtsa.gov/files/8047.html*)

4. English Owner's manuals for Mazda motor vehicles manufactured on or after 2002 can be downloaded from MNAO's Web site or upon request through MNAO dealerships and is available for customers in Puerto Rico free of charge.

5. MNAO has not received any complaints or claims in Puerto Rico with regards to the language of the owner's manuals.

MNAO has additionally informed NHTSA that it has corrected future production and that all other motor vehicle owner's manuals are correct.

NHTSA Decision: NHTSA agrees with Mazda that the noncompliance is inconsequential to motor vehicle safety. MNAO has provided sufficient documentation that the language in the Owner's Manual is the primary language for Puerto Rico and does not present a safety risk.

In consideration of the foregoing, NHTSA has determined that MNAO has met its burden of persuasion that the subject FMVSS No. 225 noncompliance in the vehicles identified in MNAO's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, MNAO's petition is hereby granted and MNAO is exempted from the obligation of providing notification of, and a remedy for, that 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. Therefore, this decision only applies to approximately 60,509 vehicles that MNAO no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after MNAO notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Issued on: June 18, 2013.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2013–14909 Filed 6–21–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0118; Notice 2]

Mazda North American Operations, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition.

SUMMARY: Mazda North American Operations (MNAO),[1] on behalf of Mazda Motor Corporation of Hiroshima, Japan (Mazda),[2] has determined that certain Mazda brand motor vehicles manufactured between 2007 and 2012 for sale or lease in Puerto Rico, do not fully comply with paragraph S4.5 of Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems.* MNAO has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports,* dated June 21, 2012.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, MNAO 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 the petition was published, with a 30-day public comment period, on October 24, 2012 in the **Federal Register** (77 FR 65051). 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–2012–0118.''

Contact Information: For further information on this decision contact Mr. Harry Thompson, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)366–5289, facsimile (202) 366–5930.

Vehicles Involved: Affected are approximately 16,748 Mazda brand motor vehicles manufactured between 2007 and 2012 for sale or lease in Puerto Rico* * *

Rule Text: Section S4.5 of FMVSS No. 138 specifically states:

S4.5 Written instructions.

(a) Beginning on September 1, 2006, the owner's manual in each vehicle certified as complying with S4.5 must provide an image of the Low Tire Pressure Telltale symbol (and an image of the TPMS Malfunction Telltale warning (''TPMS''), if a dedicated telltale is utilized for this function)with the following statement in English:

Each tire, including the spare (if provided), should be checked monthly when cold and inflated to the inflation pressure recommended by the vehicle manufacturer on the vehicle placard or tire inflation pressure label. (If your vehicle has tires of a different size than the size indicated on the vehicle placard or tire inflation pressure label, you should determine the proper tire inflation pressure for those tires.)

As an added safety feature, your vehicle has been equipped with a tire pressure monitoring system (TPMS) that illuminates a low tire pressure telltale when one or more of your tires is significantly under-inflated. Accordingly, when the low tire pressure telltale illuminates, you should stop and check your tires as soon as possible, and inflate them to the proper pressure. Driving on a significantly under-inflated tire causes the tire to overheat and can lead to tire failure. Under-inflation also reduces fuel efficiency and tire tread life, and may affect the vehicle's handling and stopping ability...

Summary of MNAO's Analyses: MNAO explains that the noncompliance is that certain Mazda brand motor vehicles sold in Puerto Rico were not delivered with the instruction statements required by paragraph S4.5(a) of FMVSS No 138 written in English. The instructions were provided in Spanish as part of the Spanish language version of the vehicle owner's manual provided with the vehicles at first sale; however, no English version owner's manuals were provided.

MNAO stated its belief that while the subject motor vehicles were delivered to customers in Puerto Rico with owner's manuals that did not include the statement as required by paragraph

[1] Mazda North American Operations is a U.S. company that manufactures and imports motor vehicles.

[2] Mazda Motor Corporation is a Japanese company that manufactures motor vehicles.

S4.5(a) of FMVSS No. 138 in English, it is inconsequential as it relates to motor vehicle safety for the following reasons:

1. All affected owner's manuals contain accurate Spanish translations of the information.

2. In Puerto Rico, Spanish is the universally prevalent language. According to a U.S. Census done by the Census Bureau in 2010, 95.7% of Puerto Rico's population speaks Spanish as their primary language.

3. English owner's manuals for Mazda motor vehicles manufactured on or after 2002 can be downloaded from MNAO's Web site or upon request through MNAO dealerships and is available for customers in Puerto Rico free of charge.

4. MNAO has not received any complaints or claims in Puerto Rico with regards to the language of the owner's manuals.

MNAO has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 138.

In summation, MNAO believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt 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.

NHTSA Decision: NHTSA agrees with MNAO that the noncompliance is inconsequential to motor vehicle safety. MNAO has provided sufficient documentation that the language in the Owner's Manual is the primary language for Puerto Rico and does not present a safety risk.

In consideration of the foregoing, NHTSA has determined that MNAO has met its burden of persuasion that the subject FMVSS No. 138 noncompliance in the vehicles identified in MNAO's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, MNAO's petition is hereby granted and MNAO is exempted from the obligation of providing notification of, and a remedy for, that 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. Therefore, this decision only applies to approximately 16,748 vehicles that MNAO no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after MNAO notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Issued on: June 18, 2013.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2013–14920 Filed 6–21–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Information Collection Activities; End-of-Year Railroad Service Outlook

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice and Request for Comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek from the Office of Management and Budget (OMB) approval of the information collection resulting from the Board's annual request that Class I carriers and other rail carriers that are members of the American Shortline and Regional Railroad Association (ASLRRA) provide the Board with information about the plans and preparations that these rail carriers have made in anticipation of the increased demand for rail service during the fall peak demand season.

Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: End-of-Year Railroad Service Outlook.

OMB Control Number: 2140–XXXX.

STB Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Respondents: The Class I rail carriers and carriers that are members of ASLRRA.

Number of Respondents: An average of 11 carriers respond to this request to voluntarily provide this information.

Frequency: Once per year.

Total Burden Hours (annually including all respondents): We estimate a total of 333 hours for all responding carriers (30.3 hours per response × 11 respondents).

Total ''Non-hour Burden'' Cost: Because respondents email their response letters to the Board, there are no non-hour costs to respondents.

Needs and Uses: The shipping community and our economy as a whole depend on reliable and efficient freight rail service. The Board and rail shippers need to understand how carriers plan to meet the increased demand for rail service during the fall peak demand season, including capital plans for relieving bottlenecks. For several years, the STB has asked Class I railroads, along with the American Short Line and Regional Railroad Association (ASLRRA) member railroads, to provide a forward-looking assessment of their ability to meet end-of-year business demands for rail service, which typically increase during the fall shipping season. The Board uses this information to monitor efforts by the country's rail carriers to meet the increased fall peak demand for rail service. The Congressional Budget Office has praised the Board's efforts in monitoring the fall peak seasonal demand for rail service and has said that it ''may have prompted the railroads to enhance their efforts to meet demand.''

DATES: Comments on this information collection should be submitted by August 23, 2013.

ADDRESSES: Direct all comments to Marilyn Levitt, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, or to *levittm@stb.dot.gov.* When submitting comments, please refer to ''End-of-Year Railroad Service Outlook.''

FOR FURTHER INFORMATION CONTACT: Marilyn Levitt at (202) 245–0269 or at *levittm@stb.dot.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service

(FIRS) at 1–800–877–8339.] This collection, as well as instructions for the collection, are available on the Board's Web site at <*http://www.stb.dot.gov/PeakLetters1.nsf/2012?OpenPage*>.

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements or requests that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under § 3506(c)(2)(A) of the PRA, Federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: June 18, 2013.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–14948 Filed 6–21–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Information Collection Activities: Report of Fuel Cost, Consumption, and Surcharge Revenue

AGENCY: Surface Transportation Board.

ACTION: 60-day notice of request for comments and approval.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek from the Office of Management and Budget (OMB) an extension of approval for the collection of the Report of Fuel Cost, Consumption, and Surcharge Revenue.

Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Report of Fuel Cost, Consumption, and Surcharge Revenue.

OMB Control Number: 2140–0014.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Class I railroads (railroads with operating revenues exceeding $250 million in 1991 dollars).

Number of Respondents: 7.

Estimated Time per Response: 1 hour.

Frequency: Quarterly.

Total Burden Hours (annually including all respondents): 84 hours.

Total ''Non-hour Burden'' Cost: None identified.

Needs and Uses: Under 49 U.S.C. 10702, the Surface Transportation Board has the authority to address the reasonableness of a rail carrier's practices. This information collection permits the Board to monitor the current fuel surcharge practices of the Class I carriers. Failure to collect this information would impede the Board's ability to fulfill its responsibilities under 49 U.S.C. 10702. The Board has authority to collect information about rail costs and revenues under 49 U.S.C. 11144 and 11145.

Retention Period: Information in this report is maintained on the Board's Web site for a minimum of one year and is otherwise maintained by the Board for a minimum of two years.

DATES: Comments on this information collection should be submitted by August 23, 2013.

ADDRESSES: Direct all comments to Marilyn Levitt, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, or to *levittm@stb.dot.gov.* When submitting comments, please refer to ''Report of Fuel Cost, Consumption, and Surcharge Revenue.''

For further information regarding the Report of Fuel Cost, Consumption, and Surcharge Revenue, or to obtain a copy of the reporting form, contact Paul Aguiar at (202) 245–0323 or *paul.aguiar@stb.dot.gov.* [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.] The form is also available on the Board's Web site.

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements or requests that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under § 3506(c)(2)(A) of the PRA, Federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: June 18, 2013.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–14950 Filed 6–21–13; 8:45 am]

BILLING CODE 4915–01–P

FEDERAL REGISTER

Vol. 78 Monday,

No. 121 June 24, 2013

Part II

Nuclear Regulatory Commission

10 CFR Part 50

Approval of American Society of Mechanical Engineers' Code Cases; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2009–0359]

RIN 3150–AI72

Approval of American Society of Mechanical Engineers' Code Cases

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to incorporate by reference the latest revisions of three regulatory guides (RGs) approving new and revised Code Cases published by the American Society of Mechanical Engineers (ASME). This proposed action would allow nuclear power plant licensees, and applicants for construction permits (CPs), operating licenses (OLs), combined licenses (COLs), standard design certifications, standard design approvals and manufacturing licenses, to use the Code Cases listed in these RGs as alternatives to engineering standards for the construction, inservice inspection (ISI), and inservice testing (IST) of nuclear power plant components.

This rulemaking also includes consideration of a petition for rulemaking (PRM), PRM–50–89, submitted by Mr. Raymond West. This rulemaking also proposes resequencing NRC's requirements governing Codes and standards in order to comply with the Office of the Federal Register's (OFR) guidelines for incorporation by reference.

DATES: Submit comments by September 9, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only of comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0359. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, contact the NRC directly at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

You may submit comments on the information collections by the methods indicated in the Paperwork Reduction Act Statement.

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

FOR FURTHER INFORMATION CONTACT: Manash K. Bagchi, Office of Nuclear Reactor Regulation, telephone: 301–415–2905; email: *Manash.Bagchi@nrc.gov;* or Wallace Norris, Office of Nuclear Regulatory Research, telephone: 301–251–7506; email: *Wallace.Norris@nrc.gov*; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION

Executive Summary

The NRC is proposing to amend its regulations to incorporate by reference the latest revisions of three NRC RGs approving new and revised Code Cases published by the ASME. The three RGs that would be incorporated by reference are RG 1.84, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' Revision 36, (DG–1230 for this proposed rule); RG 1.147, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,'' Revision 17, (DG–1231 for this proposed rule); and RG 1.192, ''Operation and Maintenance [OM] Code Case Acceptability, ASME OM Code,'' Revision 1 (DG–1232 for this proposed rule). This proposed action would allow nuclear power plant licensees, and applicants for CPs, OLs, COLs, standard design certifications, standard design approvals, and manufacturing licenses, to use the Code Cases listed in these RGs as alternatives to engineering standards for the construction, ISI, and IST of nuclear power plant components.

This rulemaking also includes consideration of PRM–50–89, submitted by Mr. Raymond West, requesting that the NRC amend its regulations to allow consideration of alternatives to the ASME Boiler and Pressure Vessel [BPV] and OM Code Cases. Lastly, this rulemaking proposes resequencing the order of NRC's requirements, governing Codes and standards in order to comply with the OFR guidelines for incorporating by reference.

I. Accessing Information and Submitting Comments
A. Accessing Information
B. Submitting Comments
II. Background
III. Discussion
A. Code Cases Approved for Unconditional Use
B. Code Case Approved for Use With Conditions
Section III Code Cases (DG–1230/RG 1.84)
Section XI Code Cases (DG–1231/RG 1.147)
OM code Cases (DG–1232/RG 1.192)
C. NRC Proposals for Code Cases on Which the NRC Received Public Comments in the 2009 Proposed ASME Code Case Rulemaking
Section III Code Cases (DG–1230/RG 1.84)
Section XI Code Cases (DG–1231/RG 1.147)
D. ASME Code Cases Not Approved for Use
IV. Petition for Rulemaking (PRM–50–89)
V. Changes Addressing Office of the Federal Register Guidelines on Incorporation by Reference
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I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2009–0359 when contacting the NRC about the availability of information for this proposed rule. You may access information related to this proposed rule, which the NRC possesses and is publicly available, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0359.
- *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 proposed rule (if that document is available in ADAMS) is provided the first time that a document is referenced. In addition, for the convenience of the reader, the ADAMS Accession Numbers are provided in a table in Section IX, ''Availability of Documents,'' of this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2009–0359 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

The ASME develops and publishes the ASME Boiler and Pressure Vessel Code (BPV Code), which contains requirements for the design, construction, and ISI of nuclear power plant components, and the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code), which contains requirements for IST of nuclear power plant components. In response to BPV and OM Code user requests, the ASME develops ASME Code Cases that provide alternatives to BPV and OM Code requirements under special circumstances.

The NRC approves and/or mandates the use of the ASME BPV and OM Code in § 50.55a of Title 10 of the *Code of Federal Regulations* (10 CFR) through the process of incorporation by reference. As such, each provision of the ASME Codes incorporated by reference into, and mandated by, 10 CFR 50.55a, ''Codes and standards,'' constitutes a legally-binding NRC requirement imposed by rule. As noted previously, ASME Code Cases, for the most part, represent alternative approaches for complying with provisions of the ASME BPV and OM Codes.

The NRC periodically amends 10 CFR 50.55a to incorporate by reference NRC RGs listing approved ASME Code Cases that may be used as alternatives to the BPV Code and the OM Code. See **Federal Register** notice (FRN), ''Incorporation by Reference of ASME BPV and OM Code Cases'' (68 FR 40469; July 8, 2003).

This rulemaking is the latest in a series of rulemakings that incorporate by reference new versions of several RGs identifying new and revised [1] unconditionally or conditionally acceptable ASME Code Cases that are approved for use. In developing these RGs, the NRC staff reviews ASME BPV and OM Code Cases, determines the acceptability of each Code Case, and publishes its findings in RGs. The RGs are revised periodically as new Code Cases are published by the ASME. The NRC incorporates by reference the RGs listing acceptable and conditionally acceptable ASME Code Cases into 10 CFR 50.55a. Currently, NRC RG 1.84, Revision 35, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III''; RG 1.147, Revision 16, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1''; and RG 1.192, Revision 0, ''Operation and Maintenance Code Case Acceptability, ASME OM Code,'' are incorporated into the NRC's regulations at 10 CFR 50.55a. A request for comment on the draft RGs is published elsewhere in today's **Federal Register** (Docket ID NRC–2009–0359).

This rulemaking also addresses PRM–50–89 that was submitted to the NRC on December 14, 2007, and revised on December 19, 2007, by Mr. Raymond West (ADAMS Accession No. ML073600974). The petition requests that the NRC amend 10 CFR 50.55a to allow NRC authorization of alternatives to NRC-approved ASME BPV and OM Code Cases. This rulemaking includes proposed provisions that address the PRM. A detailed discussion of the PRM is provided in Section IV, ''Petition for Rulemaking (PRM–50–89),'' of this document.

III. Discussion

This proposed rule would incorporate by reference the latest revisions of the NRC regulatory guides that list ASME BPV and OM Code Cases the NRC finds to be acceptable or ''conditionally acceptable'' (i.e., NRC-specified conditions). Draft Regulatory Guide (DG)-1230, Regulatory Guide 1.84, Revision 36, (ADAMS Accession No. ML102590003) would supersede the incorporation by reference of Revision 35; DG–1231, RG 1.147, Revision 17, (ADAMS Accession No. ML102590004) would supersede the incorporation by reference of Revision 16; and DG–1232, RG 1.192, Revision 1, (ADAMS Accession No. ML102600001) would supersede the incorporation by reference of Revision 0.

This proposed rule addresses two categories of ASME Code Cases. The first category of Code Cases are the new and revised Section III and Section XI Code Cases listed in Supplements 1 through 10 to the 2007 Edition of the BPV Code, and the OM Code Cases published with the 2002 Addenda through the 2006 Addenda. The second category is the Code Cases that were not addressed in the final rule published on October 5, 2010 (75 FR 61321). The 2010 final rule addressed the new and revised Section III and Section XI Code Cases listed in Supplements 2 through 11 to the 2004 Edition and Supplement 0 to the 2007 Edition of BPV Code. Public comments were received during the proposed rule stage (June 2, 2009; 74 FR 26303) requesting that the NRC include certain revised Code Cases in the final guides that were not listed in the draft guides. The NRC determined that the revised Code Cases represented changes significant enough to warrant broader public participation prior to the NRC making a final determination of them. Accordingly, the NRC is requesting comment on these Code Cases in this proposed rule.

The latest editions and addenda of the ASME BPV and OM Codes that the NRC has approved for use are referenced in 10 CFR 50.55a. The ASME also publishes Code Cases that provide alternatives to existing Code requirements developed and approved by the ASME. The proposed rule would incorporate by reference RGs 1.84, 1.147, and 1.192. The NRC, by incorporating by reference these three RGs, would allow nuclear power plant licensees and applicants for standard

[1] ASME Code Cases can be categorized as one of two types: new or revised. A new Code Case provides for a new alternative to specific ASME Code provisions or addresses a new need. A revised Code Case is a revision (modification) to an existing Code Case to address, for example, technological advancements in examination techniques or to address NRC conditions imposed in one of the regulatory guides that have been incorporated by reference into 10 CFR 50.55a.

design certifications, standard design approvals, manufacturing licenses, applicants for OIs, CPs, and COLs under the regulations that govern license certifications, to use the Code Cases listed in these RGs as suitable alternatives to the ASME BPV and OM Codes for the construction, ISI, and IST of nuclear power plant components. This action would be consistent with the provisions of the National Technology Transfer and Advancement Act of 1995, Public Law 104–113, which encourages Federal regulatory agencies to consider adopting industry consensus standards as an alternative to *de novo* agency development of standards affecting an industry. This action would also be consistent with the NRC policy of evaluating the latest versions of consensus standards in terms of their suitability for endorsement by regulations or regulatory guides.

The NRC follows a three-step process to determine the acceptability of new and revised Code Cases and the need for regulatory positions on the uses of these Code Cases. This process was employed in the review of the Code Cases in Supplements 1 through 10 to the 2007 Edition of the BPV Code and the 2002 Addenda through the 2006 Addenda of the OM Code. The Code Cases in these supplements are the subject of this proposed rule. First, the ASME develops Code Cases through a consensus development process, as administered by the American National Standards Institute (ANSI), which ensures that the various technical interests (e.g., utility, manufacturing, insurance, regulatory) are represented on standards development committees and that their viewpoints are addressed fairly. This process includes development of a technical justification in support of each new or revised Code Case. The ASME committee meetings are open to the public, and attendees are encouraged to participate. Task groups, working groups, and subgroups report to a standards committee. The standards committee is the decisive consensus committee and ensures that the development process fully complies with the ANSI consensus process. The NRC actively participates through full involvement in discussions and technical debates of the task groups, working groups, subgroups, and standards committee regarding the development of new and revised standards.

Second, the standards committee transmits to its members a first consideration letter ballot requesting comment or approval of new and revised Code Cases. To be approved, Code Cases from the first consideration letter ballot must receive the following: (1) Approval votes from at least two thirds of the eligible consensus committee membership, (2) no disapprovals from the standards committee, and (3) no substantive comments from ASME oversight committees such as the Technical Oversight Management Committee (TOMC). The TOMC's duties, in part, are to oversee various standards committees to ensure technical adequacy and provide recommendations in the development of codes and standards, as required. The Code Cases that are disapproved or receive substantive comments from the first consideration ballot are reviewed by the working level group(s) responsible for their development to consider the comments received. These Code Cases may be approved by the standards committee on second consideration with an approval vote by at least two thirds of the eligible consensus committee membership, with no more than three disapprovals from the consensus committee.

Third, the NRC reviews new and revised Code Cases to determine their acceptability for incorporation by reference in 10 CFR 50.55a through the subject RGs. This rulemaking process, when considered together with the ANSI process for developing and approving ASME codes and standards and ASME Code Cases, constitutes the NRC's basis that the Code Cases (with conditions as necessary) provide reasonable assurance of adequate protection to public health and safety.

The NRC reviewed the new and revised Code Cases identified in this proposed rule and concluded, in accordance with the process previously described, that the Code Cases are technically adequate (with conditions as necessary) and consistent with current NRC regulations. Thus, the new and revised Code Cases listed in the subject RGs are approved for use subject to any specified conditions.

A. Code Cases Approved for Unconditional Use

The NRC determined, in accordance with the process previously described for review of ASME Code Cases, that each ASME Code Case listed in Table I is appropriate for incorporation by reference without conditions into the NRC's regulations.

TABLE I

Code Case No.	Supplement	Title
Boiler and Pressure Vessel Code Section III (Addressed in DG–1230/RG 1.84, Table 1)		
N–4–13	5 (07 Edition)	Special Type 403 Modified Forgings or Bars Class 1 and CS, Section III, Division 1.
N–570–2	7 (07 Edition)	Alternative Rules for Linear Piping and Linear Standard Supports for Classes 1, 2, 3, and MC, Section III, Division 1.
N–580–2	4 (07 Edition)	Use of Alloy 600 With Columbium Added, Section III, Division 1.
N–655–1	2 (07 Edition)	Use of SA–738, Grade B, for Metal Containment Vessels, Class MC, Section III, Division 1.
N–708	2 (07 Edition)	Use of JIS G–4303, Grades SUS304, SUS304L, SUS316, and SUS316L, Section III, Division 1.
N–759–2	4 (07 Edition)	Alternative Rules for Determining Allowable External Pressure and Comprehensive Stress for Cylinders, Cones, Spheres, and Formed Heads, Section III, Division 1.
N–760–2	7 (07 Edition)	Welding of Globe Valve Disks to Valve Stem Retainers, Classes 1, 2, and 3, Section III, Division 1.
N–767	4 (07 Edition)	Use of 21 Cr-6Ni-9Mn (Alloy UNS S21904) Grade GXM–11 (Conforming to SA-182/SA–182M and SA–336/SA–336M), Grade TPXM–11 (Conforming to SA-312/SA–312M) and Type XM–11 (Conforming to SA–666) Material, for Class 1 Construction, Section III, Division 1.
N–774	7 (07 Edition)	Use of 13Cr-4Ni (Alloy UNS S41500) Grade F6NM Forgings Weighing in Excess of 10,000 lb (4,540 kg) and Otherwise conforming to the Requirements of SA–336/SA–336M for Class 1, 2, and 3 Construction, Section III, Division 1.
N–782	9 (07 Edition)	Use of Editions, Addenda, and Cases, Section III, Division 1.

TABLE I—Continued

Code Case No.	Supplement	Title
N–801	4 (10 Edition)	Rules for Repair of N-Stamped Class 1, 2, and 3 Components by Organization Other Than the N Certificate Holder That Originally Stamped the Component Being Repaired, Section III, Division 1.
N–802	4 (10 Edition)	Rules for Repair of Stamped Components by the N Certificate Holder That Originally Stamped the Component, Section III, Division 1.
Boiler and Pressure Vessel Code Section XI (Addressed in DG–1231/RG 1.147, Table 1)		
N–532–5	5 (10 Edition)	Alternative Requirements to Repair and Replacement Documentation Requirements and Inservice Summary Report Preparation and Submission as Required by IWA–4000 and IWA–6000, Section XI, Division 1.
N–716–1	1 (13 Edition)	Alternative Piping Classification and Examination Requirements, Section XI Division 1.
N–747	9 (04 Edition)	Reactor Vessel Head-to-Flange Weld Examinations Section XI, Division 1.
N–762	1 (07 Edition)	Temper Bead Procedure Qualification Requirements for Repair/Replacement Activities Without Postweld Heat Treatment, Section XI, Division 1.
N–765	8 (07 Edition)	Alternative to Inspection Interval Scheduling Requirements of IWA–2430, Section XI, Division 1.
N–769	8 (07 Edition)	Roll Expansion of Class 1 In-Core Housing Bottom Head Penetrations in BWR's, Section XI, Division 1.
N–773	8 (07 Edition)	Alternatives Qualification Criteria for Eddy Current Examinations of Piping Inside Surfaces, Section XI Division 1.
Code for Operation and Maintenance (Addressed in DG–1232/RG 1.192, Table 1).		
OMN–6	2006 Addenda	Alternate Rules for Digital Instruments.
OMN–8	2006 Addenda	Alternative Rules for Preservice and Inservice Testing of Power-Operated Valves That Are Used for System Control and Have a Safety Function per OM–10.
OMN–14	2004 Addenda	Alternative Rules for Valve Testing Operations and Maintenance, Appendix I, Boiling Water Reactor (BWR) Control Rod Drive Rupture Disk Exclusion.
OMN–16	2006 Addenda	Use of a Pump Curve for Testing.

B. Code Cases Approved for Use With Conditions

The NRC has determined that certain Code Cases, as issued by the ASME, are generally acceptable for use, but that the alternative requirements specified in those Code Cases must be supplemented to provide an acceptable level of quality and safety. Accordingly, the NRC proposes to impose conditions on the use of these Code Cases to modify, limit or clarify their requirements. For each applicable Code Case, the conditions would specify the additional activities that must be performed, the limits on the activities specified in the Code Case, and/or the supplemental information needed to provide clarity. These ASME Code Cases are included in Table 2 of the following: DG–1230 (RG 1.84), DG–1231 (RG 1.147), and DG–1232 (RG 1.192). The NRC's evaluation of the Code Cases and the reasons for the NRC's proposed conditions are discussed in the following paragraphs. Notations have been made to indicate the conditions duplicated from previous versions of the RGs.

The NRC requests public comment on these Code Cases and the proposed conditions. It should also be noted that the following paragraphs only address those Code Cases for which the NRC proposes to impose a condition or conditions that are listed in the RG for the first time (e.g., the conditions on OMN–4, 2004 are identical to those listed in Revision 0 to RG 1.192 on OMN–4, 1999 Addenda).

Section III Code Cases (DG–1230/RG 1.84)

NRC-proposed changes to Tables 1 and 2 of DG–1230/RG 1.84 for Code Cases N–520–2, N–655–1, N–757–1, N–759–2, and N–782, are discussed in this notice under the heading, *NRC Proposals for Code Cases on which NRC Received Public Comments in the 2009 Proposed ASME Code Case Rulemaking.*

Code Case N–60–5

Type: Revised

Title: *Material for Core Support Structures, Section III, Division 1*

Published: Supplement 12, 2001 Edition

The NRC proposes to reinstate a condition on the use of ASME Code Case N–60–5, which in a previous publication was inadvertently deleted. Code Case N–60–5 was originally listed in RG 1.85, ''Materials Code Case Acceptability, ASME Section III, Division 1.'' Two conditions were listed in RG 1.85 for Code Case N–60–5: 1) welding of age-hardenable Alloy SA–453 Grade 660 and SA–637 Grade 688 should be performed when the material is in the solution-treated condition, and 2) the maximum yield strength of strain-hardened austenitic stainless steel should not exceed 90,000 psi in view of the susceptibility of this material to environmentally assisted cracking. Revision 31 of RG 1.85 was last published in May 1999. In June 18, 2004 (69 FR 34202), RG 1.85 was merged into RG 1.84. The combined RG 1.84 now lists all Section III Code Cases, and RG 1.85 is no longer published. When RG 1.85 was merged into RG.1.84, the NRC inadvertently dropped the two conditions applicable to Code Case N–60–5. The NRC is now proposing to reinstate the second of the two conditions by reinstating Code Case N–60–5 in DG–1230/RG 1.84, Table 2, ''Conditionally Acceptable Section III Code Cases.''

The NRC has determined that the first condition, regarding age-hardenable Alloy SA–453 Grade 660 and SA–637 Grade 688, is no longer needed. These alloy materials are used for bolting and pins that are not typically subjected to welding.

The second condition was instituted because operating experience and laboratory testing showed that strain hardened (also known as cold-worked), austenitic stainless steel in excess of 90,000 psi yield strength, is susceptible to environmentally induced cracking. The caution regarding the limit on the maximum yield strength of strain-

hardened austenitic stainless steels has been addressed in the Standard Review Plan (SRP) for over 30 years and has been used as guidance by the NRC staff in its review of reactor coolant pressure boundary materials in all new reactors since the condition was inadvertently dropped in RG 1.84. Specifically, the limit is addressed in NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants SRP Section 4.5.1, Control Rod Drive Structural Materials, and Section 5.2.3, Reactor Coolant Pressure Boundary Materials. In Section II, SRP Acceptance Criteria state the need for such a limitation: ''Laboratory stress corrosion tests and service experience provide the basis for the criterion that cold-worked austenitic stainless steels used in the reactor coolant pressure boundary should have an upper limit on the yield strength of 620 MPa (90,000 psi).''

Thus, the technical basis for the condition is well-established and continues to be valid because these materials are used in current reactor designs and may be used in future reactor designs. Accordingly, the NRC proposes to reinstate this condition on Code Case N–60–5 in Table 2 of DG–1230/RG 1.84. A licensee that implemented Code Case N–60–5 after RG 1.84 and RG 1.85 were combined (i.e., Code Case N–60–5 unconditionally approved) would not have to comply with the reinstated condition limiting the maximum yield strength. Two of the five new reactor designs, Economic Simplified Boiling Water Reactor [ESBWR] and US–EPR, specified the use of Code Case N–60–5 during the time period that no conditions were listed in RG 1.84. These new reactor design certifications were reviewed by the NRC staff for conformance with this condition using the guidelines of the SRP. The condition is included in the Design Control Document for each of these two designs. Operating reactor licensees, who specified Code Case N–60–5 during the time that it was unconditionally approved, are required to meet the ISI examinations in ASME Code Section XI, to ensure detection of environmentally assisted cracking that might result from using strain hardened austenitic stainless steels with yield strength in excess of 90,000 psi.

Reinstatement of this condition would not impact combined license applications that are currently under review by the NRC or have been approved. The condition would only apply to those applicants or licensees in the future that implement Code Case N–60–5 in accordance with Revision 36 (or later) of the final RG 1.84.

Code Case N–208–2

Type: Revised

Title: *Fatigue Analysis for Precipitation Hardening Nickel Alloy Bolting Material to Specification SB–637 N07718 for Class 1 Construction, Section III, Division 1*

Published: Supplement 4, January 4, 2008

Figure A, ''Design Fatigue Curve for Nickel-Chromium Alloy 718,'' Code Case N–208–2, presents maximum mean stress curves. The upper-most curve is labeled ''No mean stress or $\sigma_{max} < 100$ ksi.'' The words ''No mean stress'' may be confusing to users and should be implemented with the condition that this means ''Maximum mean stress.'' In addition, the lower-most curve is labeled as ''$\sigma_{y,}$'' which may also be confusing to users. The σ_y should be implemented with the condition that it means $\sigma_{max.}$ Therefore, the NRC proposes to add two conditions to Code Case N–208–2 in Table 2 of DG–1230/RG 1.84 that would provide definitions for ''no mean stress'' and ''σ_{max}'' with respect to Figure A.

Section XI Code Cases (DG–1231/RG 1.147)

NRC-proposed changes to Tables 1 and 2 of DG–1231/RG 1.147 for Code Cases N–508–4, N–597–2, N–619, N–648–1, and N–702, are discussed in this notice under the heading, *NRC Proposals for Code Cases on which NRC Received Public Comments in the 2009 Proposed ASME Code Case Rulemaking.*

Code Case N–561–2 [Supplement 1]

Type: Revised

Title: *Alternative Requirements for Wall Thickness Restoration of Class 2 and High Energy Class 3 Carbon Steel Piping, Section XI, Division 1*

Published: Supplement 1, 2007 Edition

The original version and first version of this Code Case were not approved by the NRC for use. The NRC's basis for not approving the use of this Code Case was that: 1) no criteria for determining the rate or extent of degradation of the repair of the wall thickness restoration or the surrounding base metal were provided, and 2) re-inspection requirements were not provided to verify structural integrity since the root cause may not be mitigated. The ASME made significant technical revisions to previous versions of this Code Case by applying the findings from a very similar application (i.e., Code Case N–661, ''Alternative Requirements for Wall Thickness Restoration of Class 2 and 3 Carbon Steel Piping for Raw Water Service'').

A request to apply Code Case N–661 at the Edwin I. Hatch Nuclear Power Plant (Hatch Plant) was conditionally approved by the NRC in the Hatch Safety Evaluation Report (SER) (ADAMS Accession No. ML033280037). Code Case N–661 was subsequently approved with the same conditions in RG 1.147, Revision 15. The ASME used these same conditions in revising Code Case N–561–1 resulting in Code Case N–561–2. Based on the NRC staff's review of Code Cases N–561–2 and N–661, and on its experience applying Code Case N–661 at the Hatch Plant, the NRC proposes to approve Code Case N–561–2 with certain conditions. This is reflected in Table 2 of DG–1231. Five proposed conditions on this Code Case will be listed in Table 2 of DG–1231/RG 1.147. The proposed conditions are discussed in this section.

The provisions of Code Cases N–561–2 and N–661–1 are similar in that the Code Cases apply to similar systems (i.e., Class 2 and High Energy Class 3 Carbon Steel Piping, Class 3 Moderate Energy Carbon Steel Piping, and Carbon Steel Piping for Raw Water Service). The provisions were developed by the ASME to perform an alternative repair of degraded components, which involves the application of weld metal overlay on the exterior of the piping system to restore the wall thickness of the component. Accordingly, the conditions identified in the SER regarding Code Case N–661 also apply to Code Case N–561–2.

One of the conditions in the SER addressed the time period for which the repair would be considered acceptable. The definition established by the NRC was modified when added to Code Case N–561–2. In Code Case N–661, the repair is only acceptable until the ''next refueling outage.'' In contrast, Code Case N–561–2 states that the repair would be acceptable for ''one fuel cycle.'' The NRC believes that it is unclear in Code Case N–561–2 what one fuel cycle actually infers if a repair is performed at mid-cycle.

It could be interpreted that the repair is acceptable for the remainder of the current fuel cycle plus the subsequent fuel cycle. This interpretation could double the time period. The NRC established this limitation on the acceptable life of the repair of the five because the Code Case does not require that the root cause of the degradation be determined. If the root cause of the degradation has not been determined, a suitable reinspection frequency cannot be established. In addition, the Code Case would allow repairs to be made by welding on surfaces that are wet or exposed to water. Performing through-

wall weld repairs on surfaces that are wet or exposed to water would greatly increase the chances of producing welds that include weld defects such as porosity, lack of fusion, and cracks. It is highly unlikely that a weld can be made on an open root joint with water present on the backside of the weld without having several weld defects. These types of weld defects can, and many times do, lead to premature failure of a weld joint.

Accordingly, the NRC is proposing on Code Case N–561–2 two of the five conditions (identified as Conditions 1 and 3) in the DG–1231 to address these concerns. The first proposed condition addresses those situations where welds are fabricated with water present on the backside, defects are likely, and the service life time would be expected to be greatly reduced: ''Paragraph 5(b): [of Code Case N–561–2] for repairs performed on a wet surface, the overlay is only acceptable until the next refueling outage.'' A second proposed condition is being added on Code Case N–561–2 that would not allow the exemption in Paragraph (6)(c)(1). Paragraph (6)(c)(1) states that ''Class 3 weld overlays are exempt from volumetric examination when the Construction Code does not require that full-penetration butt welds in the same location be volumetrically examined.'' Many licensees are mitigating stress corrosion cracking through the addition of a weld overlay on the outside of the piping. The purpose of the overlay is to restore wall thickness. The NRC has approved this mitigation technique provided that the full thickness of the weld overlay as well as a certain portion of the base material can be volumetrically examined. The exemption in Paragraph (6)(c)(1) conflicts with the NRC position on this matter, and thus the third condition is proposed requiring the performance of a volumetric examination of the weld overlay.

The third proposed condition on Code Case N–561–2 is: ''Paragraph 7(c): if the cause of the degradation has not been determined, the repair is only acceptable until the next refueling outage.''

The fourth condition on Code Case N–561–2 is proposed to address the NRC's concern that a preexisting flaw could grow through-wall after application of a weld overlay: ''The area where the weld overlay is to be applied must be examined using ultrasonic methods to demonstrate that no crack-like defects exist.'' The basis for this proposed condition is discussed in detail here. Weld overlays have been used as a mitigation method and as a repair method to address stress corrosion cracking in piping butt welds. The basis for applying a weld overlay is that it will result in compressive residual stresses on the inside surface of the pipe, thus preventing a flaw from growing. Analytical modeling has been used to predict post-weld repair residual stress distributions for common piping configurations. Many times, however, weld records are not available or are not complete with regard to weld repairs made during construction. The investigations using modeling to predict the residual stresses resulting from weld repairs have used various assumptions to address the lack of data from weld records.

This raises a question whether a model can accurately predict residual stresses if the extent of repairs is unknown. Factors such as the number of weld passes, welding sequence, and heat input can greatly influence stress patterns. Thus, analytical modeling of typical piping weld configurations with a weld overlay has been used to determine whether application of a weld overlay would result in compressive residual stresses and impede the growth of a preexisting flaw. Because of the many assumptions that might be required, configurations have been analyzed with up to a 75 percent through thickness flaw.

While the results of the analyses performed have shown that a weld overlay could produce compressive stresses on the inside diameter of the piping for repairs as great as 75 percent through-wall, the NRC continues to be concerned regarding the lack of repair information. For example, an investigation into a leak that occurred several years ago showed that at least four weld repairs had been performed. This case is not believed to be unique. Thus, the NRC does not believe that the analyses that have been conducted to date are bounding, nor that the analyses have demonstrated that a preexisting flaw would not continue to grow circumferentially and perhaps through-wall after application of a weld overlay. Accordingly, the NRC proposes that it must be shown, using ultrasonic methods that no flaws exist in the area where the weld overlay is to be applied.

The fifth and last condition being proposed on Code Case N–561–2 is ''Paragraph 4(b): All systems must be depressurized before welding.'' The need for this condition is the same as that for the first proposed condition, i.e., the Code Case would allow repairs to be made by welding on surfaces that is wet or exposed to water. As previously discussed, it is highly unlikely that a weld can be made on an open root joint with water present on the backside of the weld without having several weld defects, and these types of weld defects can lead to premature failure of a weld joint. Thus, depressurizing the system would decrease the chances of producing a suspect weld.

Code Case N–562–2

Type: Revised

Title: *Alternative Requirements for Wall Thickness Restoration of Class 3 Moderate Energy Carbon Steel Piping, Section XI, Division 1*

Published: Supplement 1, 2007 Edition

Code Case N–562–2 is nearly identical to Code Case N–561–2, which is discussed separately herein. The principal difference between the Code Cases is that N–562–2 addresses lower energy piping. However, the same concerns previously discussed regarding Code Case N–561–2 also apply to Code Case N–562–2. Accordingly, the same five conditions are being proposed for Code Case N–562–2.

Code Case N–661–2

Type: Revised

Title: *Alternative Requirements for Wall Thickness Restoration of Classes 2 and 3 Carbon Steel Piping for Raw Water Service, Section XI, Division 1*

Published: Supplement 1, 2007 Edition

As previously discussed with respect to Code Case N–561–2, Code Case N–661–2 is very similar to the other two Code Cases addressing restoration of wall thickness (namely N–561–1 and N–562–2), except that N–661–2 addresses raw water service systems.

Conditions (1) and (3) in draft Revision 17 to RG 1.147 for Code Case N–661–2 were listed in Revision 16 to RG 1.147. Those conditions are: (1) Paragraph 4(b): for repairs performed on a wet surface, the overlay is only acceptable until the next refueling outage; and (3) paragraph 7(c): if the cause of the degradation has not been determined, the repair is only acceptable until the next refueling outage. As previously indicated in the discussion addressing Code Case N–561–2, the ASME made significant technical revisions to Code Cases N–561–1, N–562–1, and N–661–1. Consistent with the technical justification addressing the proposed conditions for Code Case N–561–2, the NRC is proposing three new conditions for Code Case N–661–2. Those conditions are listed in draft Revision 17 to RG 1.147 as following: (2) Paragraph 6(c)(1): this exemption is not permitted; (4) The area where the weld overlay is to be applied must be examined using ultrasonic methods to

demonstrate that no crack-like defects exist; and (5) All systems must be depressurized before welding.

Code Case N–739–1 [Supplement 1]

Type: Revised

Title: *Alternative Qualification Requirements for Personnel Performing Class CC Concrete and Post-Tensioning System Visual Examinations, Section XI, Division 1*

Published: Supplement 1, 2007 Edition

The original version of this Code Case was not approved by the NRC for use. The NRC had concerns regarding the lack of detail provided on the instructional material to be covered in the qualification of personnel performing these inspections. The revised Code Case includes detailed instructional material regarding requirements for training. The NRC finds the added requirements to be acceptable. However, the reference in the Code Case to the American Concrete Institute (ACI) standard has been printed incorrectly. To ensure that the correct instructional material is used, the NRC is proposing to conditionally approve Code Case N–739–1 to indicate that the correct ACI reference is 201.1.

OM Code Cases (DG–1232/RG 1.192)

Code Case OMN–1

Type: Revised

Title: *Alternative Rules for Preservice and Inservice Testing of Active Electric Motor-Operated Valve Assemblies in Light-Water Reactor Power Plants*

Published: 2006 Addenda

Proposed Revision 1 to RG 1.192 does not modify the conditions imposed on the implementation of Code Case OMN–1 that were listed in Revision 0 to RG 1.192, issued June 2003. The following discussion is included in the proposed rule to emphasize that caution is required when using risk insights to evaluate the performance of MOVs that have exercise intervals extended from quarterly to every refueling outage.

In 1996, ASME issued Code Case OMN–1 that allows quarterly stroke-time testing of motor-operated valves (MOVs) in the IST program to be replaced by a program of exercising on a refueling outage frequency and periodic diagnostic testing at intervals up to 10 years. In 1999, the NRC accepted the use of Code Case OMN–1 with conditions in 10 CFR 50.55a(b)(3)(iii) as an alternative to the requirement in 10 CFR 50.55a(b)(3)(ii) that licensees shall comply with the provisions for MOV stroke-time testing in the OM Code and shall establish a program to ensure that MOVs continue to be capable of performing their design-basis safety functions.

In June 2003, the NRC staff developed RG 1.192 and transferred the acceptance of Revision 0 to Code Case OMN–1 from 10 CFR 50.55a(b)(3)(iii) to RG 1.192 with the following conditions. Those conditions are:

(1) The adequacy of the diagnostic test interval for each MOV must be evaluated and adjusted as necessary, but not later than 5 years or three refueling outages (whichever is longer) from initial implementation of OMN–1.

(2) When extending exercise test intervals for high risk MOVs beyond a quarterly frequency, licensees must ensure that the potential increase in Core Damage Frequency (CDF) and risk associated with the extension is small and consistent with the intent of the Commission's Safety Goal Policy Statement.

(3) When applying risk insights as part of the implementation of OMN–1, licensees must categorize MOVs according to their safety significance using the methodology described in Code Case OMN–3, ''Requirements for Safety Significance Categorization of Components Using Risk Insights for Inservice Testing of LWR Power Plants,'' with the conditions discussed in RG 1.192 or use other MOV risk-ranking methodologies accepted by the NRC on a plant-specific or industry-wide basis with the conditions in the applicable safety evaluations.

Licensees may use Code Case OMN–1 in lieu of the provisions for stroke-time testing in Subsection ISTC of the 1995 Edition up to and including the 2000 Addenda of the ASME OM Code when applied in conjunction with the provisions for leakage rate testing in, as applicable, ISTC 4.3 (1995 Edition with the 1996 and 1997 Addenda) and ISTC–3600 (1998 Edition through the 1999 and 2000 Addenda). In addition, licensees who continue to implement Section XI of the ASME BPV Code as their Code of Record may use OMN–1 in lieu of the provisions for stroke-time testing specified in Paragraph 4.2.1 of ASME/ANSI OM Part 10 as required by 10 CFR 50.55a(b)(2)(vii) subject to the conditions in this regulatory guide. Licensees who choose to apply OMN–1 must apply all its provisions.

It should be noted that ASME issued Code Case OMN–11, ''Risk-Informed Testing for Motor-Operated Valves,'' in the 2001 Edition to provide more specific provisions for the application of risk insights as part of the MOV diagnostic testing alternative allowed in Code Case OMN–1. The NRC accepted the use of OMN–11 in Revision 0 of RG 1.192 with conditions related to determination of acceptable MOV test intervals based on diagnostic data, evaluation of test results for grouped low-risk MOVs, and extension of the exercise interval for high-risk MOVs similar to the condition in RG 1.192 for Code Case OMN–1.

In the 2006 Addenda to the ASME OM Code, ASME issued an updated version of Code Case OMN–1 to clarify the guidance for users of the code case. In its updated version, Code Case OMN–1 incorporates the provisions of Code Case OMN–11 for applying risk insights as well as the conditions specified in the June 2003 version of RG 1.192 for the use of Code Case OMN–11.

The NRC staff is not proposing to modify the conditions for the acceptability of Code Case OMN–1 based on the incorporation of provisions for applying risk insights from OMN–11. However, based on operating experience at nuclear power plants, the NRC emphasizes the importance of evaluating the performance of MOVs that have exercise intervals extended from quarterly to every refueling outage. As discussed in **Federal Register** Notice 51370 (dated September 22, 1999) on page 51386, and which the NRC finds is still applicable when using the 2006 version of Code Case OMN–1, the licensee should have sufficient information from the specific MOV, or similar MOVs, to demonstrate that exercising on a refueling outage frequency does not significantly affect component performance. This information may be obtained by grouping similar MOVs and staggering the exercising of the MOVs in the group equally over the refueling interval. Licensees are cautioned that, when implementing OMN–1, the benefits of performing a particular test should be balanced against the potential adverse effects placed on the valves or systems caused by this testing.

Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,'' to 10 CFR part 50 requires nuclear power plant licensees to evaluate deficiencies in the performance of safety-related MOVs. Where degradation in the performance of a high-risk MOV is identified when exercised or tested at an extended interval, licensees should reapply the quarterly frequency for the exercise test interval for all high-risk MOVs and implement diagnostic testing of those MOVs at an interval that provides assurance of their design-basis capability throughout the test interval. Licensees should also incorporate the performance results for all MOVs into the probabilistic risk analysis to determine whether the risk ranking of

MOVs should be modified based on those results.

For additional information on OMN–1, see the discussion on OMN–4 and OMN–12 below.

Code Case OMN–3

Type: Revised

Title: *Requirements for Safety Significance Categorization of Components Using Risk Insights for Inservice Testing of LWR Power Plants*

Published: 2004 Edition

The NRC initially issued RG 1.192 in June 2003 accepting several ASME OM Code Cases, including Code Case OMN–3. Subsequently, on December 18, 2003, the Commission issued Staff Requirements Memorandum (SRM) COMNJD–03–0002, ''Stabilizing the PRA Quality Expectations and Requirements'' (ADAMS Accession No. ML033520457), which approved implementation of a phased approach to achieving an appropriate quality for probabilistic risk assessments (PRAs) for the NRC's risk-informed decisionmaking. In SECY–04–0118 dated July 13, 2004 (ADAMS Accession No. ML041470505), the NRC staff described its action plan to implement the SRM, which the Commission subsequently approved in an SRM dated October 6, 2004 (ADAMS Accession No. ML042800369).

The central concept of the action plan specifies the development of consensus PRA standards and associated industry guidance documents, as discussed in RG 1.200 (March 2009), ''An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities.'' RG 1.200 clarifies that the staff anticipates that current good practice, (i.e., Capability Category II (CCII)) as explained in the appendices of RG 1.200, is the level of technical adequacy that is sufficient for the majority of applications. RG 1.200 provides that licensees evaluate all deviations from CCII or higher and document why the PRA is sufficient for the proposed application.

In a related action, the Commission published Section 69, ''Risk-Informed Categorization and Treatment of Structures, Systems and Components for Nuclear Power Reactors'' in 10 CFR part 50 on November 22, 2004. RG 1.201 (May 2006), ''Guidelines for Categorizing Structures, Systems, and Components in Nuclear Power Plants According to their Safety Significance,'' describes one acceptable method to categorize the safety significance of active components. Section 50.69 specifies high level treatment requirements for low risk SSCs whereas SSC treatment is prescribed in more detail in several risk-informed ASME OM Code Cases.

Based on a consideration of the information in Section 69 in 10 CFR part 50 and in the RG 1.201, the NRC proposes Conditions (5), (6) and (7) in RG 1.192 to its acceptance of Code Case OMN–3 included in the 2004 Edition of the ASME OM Code. Licensees applying Code Case OMN–3, 2004 Edition, will need to apply the conditions specified in the previous version of RG 1.192 issued in June 2003, and new Conditions (5), (6) and (7) discussed in this section. As stated in RG 1.192, if a licensee implements a Code Case and a later version of the Code Case is incorporated by reference into 10 CFR 50.55a and listed in Tables 1 and 2 during the licensee's present 120-month IST program interval, that licensee may use either the later version or the previous version. An exception to this provision would be the inclusion of a limitation or condition on the use of Code Case that is necessary, for example, to enhance safety. The NRC staff has determined that a licensee currently using Code Case OMN–3 must use the later version of the Code Case listed in Table 2 of RG 1.192, Revision 1, after it is incorporated by reference into 10 CFR 50.55a.

Condition (5) specifies that the implementation of Section 3.2, ''Plant Specific PRA,'' in Code Case OMN–3 must be consistent with the guidance that the Owner is responsible for demonstrating and justifying the technical adequacy of the PRA analyses used as the basis to perform component risk ranking and for estimating the aggregate risk impact. Condition (5) references RG 1.200 and 1.201 for guidance in satisfying this condition. For example, RG 1.200 includes descriptions of technical adequacy of PRA analyses beyond those modeling only internal initiating events, (e.g., for seismic and internal fire initiating events). RG 1.201 endorses the guidance described by the Nuclear Energy Institute (NEI) in Revision 0 to NEI 00–04, ''10 CFR 50.69 SSC Categorization Guideline,'' dated July 2005. This document describes how the importance of components relied on for seismic, fires, and other initiating events (and operating modes) should be included in the categorization process, including if no plant-specific PRA is available for the hazard.

Condition (6) specifies that paragraph (b) in Section 4.2.4, ''Reconciliation,'' in Code Case OMN–3 is not endorsed. Condition (6) states that the expert panel may not classify components that are ranked as a High Safety Significant Component (HSSC) by the results of a qualitative or quantitative PRA evaluation (excluding the sensitivity studies) or the defense-in-depth assessment to a Low Safety Significant Component (LSSC). RG 1.201 clarifies that a component, identified as high safety significant by any of the PRA (excluding the sensitivity studies) or defense-in-depth evaluations may not be re-categorized to low safety significant by the expert panel. The position in RG 1.201 that an expert panel may not decide the PRA or defense-in-depth evaluations are in error and lower the safety significance assigned according to these evaluations is applicable to OMN–3 deliberations. Rather, the expert panel should provide information regarding its views to the PRA analysts so that the evaluations can be re-performed, if appropriate, to address the expert panel issue or document the appropriateness of the current analysis results.

Condition (7) specifies that implementation of Section 3.3, ''Living PRA,'' in Code Case OMN–3 must be consistent with the following: (1) to account for potential changes in the failure rates and other changes that could affect the PRA, changes to the plant must be reviewed, and, as appropriate, the PRA updated; (2) when the PRA is updated, the SSC categorization must be reviewed and changed if necessary to remain consistent with the categorization process; and (3) the review of plant changes must be performed in a timely manner and must be performed once every two refueling outages or as required by 50.71(h)(2) for COL holders. Changes to the plant, including potential changes in failure rates, might affect the PRA evaluations, and changes to the PRA evaluations might affect the safety significance of the components developed from these evaluations. Therefore, the PRA must be periodically updated and the risk categorization reviewed when the PRA is updated. The period of two refueling outages as the maximum period between determinations of whether a PRA update is needed is consistent with the time span in 10 CFR 50.69.

Code Case OMN–3 addresses safety significance categorization of components using risk insights as applied to inservice testing. Several new conditions are proposed with respect to Code Case OMN–3 (discussed earlier) that reflect current NRC regulatory positions on determining PRA technical adequacy when using risk insights in regulatory applications. Code Cases OMN–1, OMN–4, 2004 Edition, and OMN–12, 2004 Edition, also address the use of risk insights for inservice testing. Accordingly, to ensure consistent

implementation among these Code Cases, a note has been added to Code Case OMN–4 and OMN–12. Paragraph 3.1 of Code Case OMN–12 states that ''Valve assemblies shall be classified as either high safety significant or low safety significant in accordance with Code Case OMN–3.'' However, given the interdependence of Code Cases OMN–1, OMN–3, OMN–4, and OMN–12, Note 3 has been added to Code Case OMN–12 as a reminder of the dependence on Code Case OMN–3 (i.e., paragraph 3.1). In addition, Note 2 has been added to Code Case OMN–4 as a reminder that the conditions with respect to allowable methodologies for OMN–3 risk ranking specified for the use of OMN–1 also apply to OMN–4.

C. NRC Proposals for Code Cases on Which NRC Received Public Comments in the 2009 Proposed ASME Code Case Rulemaking

On June 2, 2009, the NRC published a proposed rule (74 FR 26303) and a parallel notice of availability of draft RGs (74 FR 26440) seeking public comments on incorporating by reference draft RG 1.84, Revision 35, and draft RG 1.147, Revision 16. The NRC received public comments on draft Revision 35 to RG 1.84 and draft Revision 16 to RG 1.147 requesting that certain revised Code Cases that were not listed in those draft guides be approved in the final guides. These revised Code Cases that were the subject of comment in 2009 are N–520–2, N–655–1, N–757–1, N–759–2, and N–782 for RG 1.84; and Code Cases N–508–4, N–597–2, N–619, N–648–1, and N–702 for RG 1.147. In that earlier rulemaking, the NRC determined that the revised Code Cases represented changes significant enough to warrant broader public participation prior to the NRC making a final determination of them. Therefore, the final RG 1.84 and RG 1.147 associated with the 2010 final rule (75 FR 61321; October 5, 2010) did not include these Code Cases.

The NRC has reviewed these Code Cases, and now proposes to approve those Code Cases, in some cases with conditions. These Code Cases are discussed in this section, under the applicable draft regulatory guide.

Section III Code Cases (DG–1230/RG 1.84)

Code Case N–520–2

Type: Revised

Title: *Alternative Rules for Renewal of Active or Expired N-type Certificates for Plants Not in Active Construction*

Published: Supplement 4, 2007 Edition

Code Case N–520–1, the predecessor of Code Case N–520–2, was unconditionally approved in Revision 34 to RG 1.84. The objective of Code Case N–520–1 was to address situations where construction was halted on a nuclear power plant, interrupting ASME Code activities, but the Certificate Holder had maintained its certificate. Code Case N–520–1 provided guidance on what a Certificate Holder had to do to document and stamp the completed construction work. On June 2, 2009, the NRC published a proposed rule (74 FR 26303) and a parallel notice of availability of draft RGs (74 FR 26440) seeking public comment on draft RG 1.84, Revision 35. The NRC received a public comment requesting that the NRC approve Code Case N–520–2 for inclusion in final Revision 35, noting that Code Case N–520–2 had been approved by the ASME on November 1, 2007, and published in Supplement 4 to the 2007 Edition. Code Case N–520–2 was developed to allow an organization with an expired certificate to secure an ASME Temporary Certificate of Authorization. Because Code Case N–520–2 was not part of the June 2009 proposed rule and the changes reflected in N–520–2 were significant, the NRC did not adopt the public comment to list Code Case N–520–2 in final Revision 35 to RG 1.84 (incorporated by reference in the final rule published on October 5, 2010 (75 FR 61321)).

The NRC has now determined that the provisions of Code Case N–520–2 are adequate for addressing a situation where a Certificate Holder has let its N-type certificates expire. The basis for this determination is that all completed in-process work must be clearly documented to ensure that remaining activities and Code responsibilities are readily identifiable. In addition, the ASME Temporary Certificate of Authorization is for the sole purpose of completing the required documentation and component stamping. Finally, this work must be completed under a contract with an Authorized Nuclear Inspection Agency (ANIA).

The NRC is proposing to conditionally approve Code Case N–520–2 because it believes that the wording of the Code Case may create confusion regarding the relationship between the ANIA and the Authorized Nuclear Inspector (ANI). The purpose of the condition in Table 2 of DG1230/RG 1.84, Revision 36, is to clearly indicate that the ANIA employs the ANI.

Code Cases N–655–1, N–757–1, N–759–2, N–782

A comment responding to the June 2, 2009, proposed rule (74 FR 26303) and a parallel notice of availability of draft RGs (74 FR 26440), requested that the following four Code Cases used in the AP–1000 design that were not included in draft Revision 35 of RG 1.84 be included in the final guide: Code Case N–655–1, ''Use of SA–738, Grade B, for Metal Containment Vessels, Class MC, Section III, Division 1;'' Code Case N–757–1, ''Alternative Rules for Acceptability for Class 2 and 3 Valves, NPS 1 (DN25) and Smaller with Welded and Nonwelded End Connections other than Flanges, Section III, Division 1;'' Code Case N–759–2, ''Alternative Rules for Determining Allowable External Pressure and Compressive Stresses for Cylinders, Cones, Spheres, and Formed Heads, Section III, Division 1;'' and Code Case N–782, ''Use of Code Editions, Addenda, and Cases Section III, Division 1.'' Draft Revision 35 of RG 1.84 considered Code Cases published up to Supplement 0 to the 2007 Edition. Code Cases N–655–1 and N–757–1 were published in Supplement 2 to the 2007 Edition. Code Case N–759–2 was published in Supplement 4 to the 2007 Edition. Code Case N–782 was published in Supplement 9 to the 2007 Edition. These four Code Cases were beyond the scope of the draft RG and thus had not been considered for inclusion in the draft RG.

The NRC did not include these four Code Cases in final Revision 35 of RG 1.84 because it would have been inappropriate to include them in the final RG without providing the public an opportunity for comment. In addition, these Code Cases were not referenced in the latest AP–1000 Design Control Document.

Code Cases N–655–1, N–759–2, and N–782 have been reviewed by the NRC and have been found to be acceptable. Accordingly, these Code Cases are listed in Table 1 of DG–1230/RG 1.84, Revision 36, and the NRC proposes to unconditionally approve them, as presented in Table I under ''Code Cases Approved for ''Unconditional Use''.

Code Case N–757–1 was reviewed and found to be conditionally acceptable. It is listed in Table 2 of the DG–1230/RG 1.84. The proposed condition for Code Case N–757–1 is discussed in the following discussion.

Code Case N–757–1 [Supplement 2]

Type: Revised

Title: *Alternative Rules for Acceptability for Class 2 and 3 Valves NPS 1 (DN 25) and Smaller with Welded and Nonwelded End Connections Other than Flanges, Section III, Division 1*

Published: Supplement 2, 2007 Edition

The NRC proposes to impose a condition on Code Case N–757–1 in Table 2 of RG 1.84 to prohibit the use

of the design provisions in ASME Section III, Division 1, Appendix XIII, for Class 3 valves. This would be accomplished by adding the condition to Table 2 of DG–1230/RG 1.84. The Code Case addresses the use of instrument, control, and sampling line valves, NPS 1 (DN 25) and smaller, with nonwelded end connections other than ASME B16.5 flanges for Section III, Division 1, Class 2 and Class 3 construction. The Code Case provides three options for the design of Class 2 and Class 3 valves that do not meet the minimum thickness requirements in ASME B16.34. These options include the following: 1) the pressure design rules of Section III, paragraphs NC–3324 and ND–3324; 2) the experimental stress analysis rules in Section III, Appendix II; or 3) design based on the stress analysis rules in Section III, Appendix XIII.

The NRC finds that the first option provides an acceptable alternative basis for the design of ASME Class 2 and Class 3 valves because it provides adequate design margin by using the vessel design rules accepted by the NRC in 10 CFR 50.55a. The second option is also acceptable for the design of ASME Class 2 and Class 3 valves because it allows the designer to use experimental stress analysis techniques to establish that the design provides acceptable ASME Code margins for parts in which theoretical stress analysis might not be possible or practical. The third option, however, is not acceptable to the NRC.

Option 3 would allow a designer to use the criteria provided in Section III, Division 1, Appendix XIII. As defined by the scope of Appendix XIII, these Code rules are only applicable to the design of Class 2 vessels meeting the requirements of NC–3200. Further, Appendix XIII provides for design based on a stress analysis that uses criteria similar to that used for the design of ASME Class 1 components (including the ASME Class 1 stress intensity allowable limits). The stress intensity values in the acceptance criteria are greater than the allowable stress intensity values specified for the design of ASME Class 3 components. The NRC concludes that the criteria in Appendix XIII are not intended for the design of ASME Class 3 components, including the valves within the scope of N–757, and that a condition should be added to Table 2 of DG–1230/RG 1.84 that prohibits the use of these design provisions for Class 3 valves.

It should be noted that the NRC staff approved this Code Case as it was considered by the cognizant ASME committees. However, upon further consideration as Code Cases were reviewed for inclusion in the subject RGs, the NRC determined that use of the Code Case was inappropriate for ASME Class 3 components. Therefore, the NRC proposes to impose a condition that would prohibit the use of the design provisions in ASME Section III, Division 1, Appendix XIII, for Class 3 valves.

Section XI Code Cases (DG–1231/RG 1.147)

Code Case N–508–4

Type: New

Title: *Rotation of Snubbers and Pressure Retaining Items for the Purpose of Testing or Preventive Maintenance, Section XI, Division 1*

Published: Supplement 8, 2007 Edition

Code Case N–508–3, the predecessor of Code Case N–508–4, was unconditionally approved in Revision 15 to RG 1.147. The objective of Code Case N–508–3 was to provide guidance on rotating snubbers and relief valves from stock for the purpose of testing or preventive maintenance. On June 2, 2009, the NRC published a proposed rule (74 FR 26303) and a parallel notice of availability of draft RGs (74 FR 26440) seeking public comment on draft RG 1.147, Revision 16. The NRC received a public comment noting that Code Case N–508–4 had been approved by the ASME on January 26, 2009, and published in Supplement 8 to the 2007 Edition, and requesting that the NRC approve Code Case N–508–4 in final Revision 16 rather than cease approval at Code Case N–508–3. Code Case N–508–4 significantly expands the list of components that may be rotated from stock for the purpose of testing or preventive maintenance (adds pumps, control rod drive mechanisms, and pump seal packages).

Because Code Case N–508–4 was not part of the June 2009 proposed rule and the changes reflected in N–508–4 were significant, the NRC did not adopt the public comment to list Code Case N–508–4 in final Revision 16 to RG 1.147 (incorporated by reference in the final rule published on October 5, 2010 (75 FR 61321)). Instead, this Code Case is addressed in draft Revision 17 to RG 1.147.

The NRC has not identified any technical reasons why additional components may be considered for the purpose of testing or preventive maintenance as described in the Code Case N–508–4. However, the NRC has identified an issue and proposes to condition Code Case N–508–4 to ensure that there is no conflict regarding the application of this Code Case. When Section XI is used to govern snubber examination and testing, Footnote 1 (which was later added to the Code Case) conflicts with Subsection IWF, Section XI, up to and including the 2004 Edition through the 2005 Addenda. Footnote 1 directs the user to implement the OM Code for snubber examination and testing. The OM Code was developed in order to have a separate Code for the development and maintenance of provisions for the IST of pumps and valves. In 1990, the ASME published the initial edition of the OM Code, thereby transferring responsibility for these provisions from Section XI to the OM Code Committee. While the use of the OM Code is an option under paragraph (b)(3)(v)(A), the examination and testing requirements for snubbers are also provided in the 2005 Addenda and earlier editions and addenda of Section XI. Thus, there is a conflict for editions and addenda up to the 2005 Addenda of Section XI, but there is no conflict for licensees who have adopted the 2006 Addenda or later editions and addenda of Section XI.

To resolve the conflict, the NRC is proposing to include in DG–1231/RG 1.147, Revision 17, a condition to Code Case N–508–4 stating that Footnote 1 to the Code Case would not apply when the ISI Code of record is earlier than Section XI, 2006 Addenda, and Section XI requirements are used to govern the examination and testing of snubbers.

Code Case N–597–2

Type: Revised

Title: *Requirements for Analytical Evaluation of Pipe Wall Thinning*

Listed: Revision 15 to RG 1.147

Published: November 18, 2003

Code Case N–597–2 was conditionally approved in Revision 15 to RG 1.147. Two comments responding to the proposed rule published on June 2, 2009 (74 FR 26303), and a parallel notice of availability of draft RGs (74 FR 26440) seeking public comment on draft RG 1.147, Revision 16, suggested that the method in Code Case N–513–2, ''Evaluation Criteria for Temporary Acceptance of Flaws in Moderate Energy Class 2 or 3 Piping,'' used to evaluate local degradation, should be approved by the NRC for application to Code Case, N–597–2. The comments argued that the NRC has conditionally approved Code Case N–513–2 with an evaluation methodology to allow licensees to temporarily accept flaws in moderate energy Class 2 or 3 piping, whereas condition (2) on Code Case N–597–2 requires NRC approval for any amount of local degradation beyond that calculated by the hoop stress equation.

Because Code Case N–513–2 was not part of the June 2, 2009, proposed rule and the changes reflected in N–513–2 are significant, the NRC did not adopt the public comments to allow the Code Case N–513–2 evaluation to also be used with respect to Code Case N–597–2. While the NRC agrees that the flaw evaluation methodology for analyzing piping degradation contained in Code Case N–513–2 could under certain circumstances be applied for a Code Case N–597–2 evaluation (i.e., both Code Cases address the analytical evaluation of pipe wall thinning), the NRC disagrees with the comments that through-wall leakage should be included in the scope of such an evaluation. Code Case N–597–2 was not developed to address leakage; it is focused only on analytical evaluation of wall thinning. The comments discuss local degradation up to and including through-wall leakage and believe it would be appropriate to allow such leakage for all ASME Code class components. This implies that such leakage from high temperature, high pressure systems is no different from leakage from low temperature, low pressure systems. Permitting degradation up to and including through-wall leakage in certain systems would violate 10 CFR part 50, appendix A, Criterion General Design Criteria (GDC) 14, ''Reactor coolant pressure boundary,'' and/or similar provisions in the licensing basis for these facilities, which require that the reactor coolant pressure boundary be tested to ensure an extremely low probability of abnormal leakage, of propagating failure, and of gross rupture. In addition, there have been pipe breaks and leakage in high temperature, high pressure lines throughout the world and some have been sudden and catastrophic. Code Case N–597–2 is applicable to all ASME Code class piping, including high energy piping; whereas, Code Case N–513–2 is limited to Class 2 and 3 moderate energy piping. The NRC has only approved temporary acceptance of flaws for moderate energy Class 2 or 3 piping (maximum operating temperature does not exceed 200 °F (93 °C) and maximum operating pressure does not exceed 275 psig (1.9 MPa)). The comments' requested change would redefine the defense-in-depth concept. Rather than performing inspections to detect flaws before structural integrity is compromised, degradation would be managed in effect after leakage is discovered.

The NRC agrees, however, that it should be permissible under certain circumstances for licensees to evaluate local thinning using the acceptance criteria of the Code Case without NRC review and acceptance. Thus, a sixth condition is being proposed for Code Case N–597–2 in DG–1231/RG 1.147, Revision 17. The condition would propose that, on moderate-energy Class 2 and 3 piping, wall thinning acceptance criteria may be used on a temporary basis based on the provisions of Code Case N–513–2, and that Code Case N–597–2 cannot be used to evaluate through-wall leakage conditions.

Code Cases N–619

Type: Conditionally approved
Title: *Alternative Requirements for Nozzle Inner Radius Inspections for Class 1 Pressurizer and Steam Generator Nozzles Published*
Published: April 8, 2002

Code Case N–648–1

Type: Conditionally approved for the first time
Title: *Alternative Requirements for Inner Radius Examination of Class 1 Reactor Pressure Vessel Nozzles*
Published: September 18, 2001

A comment on the proposed rule published on June 2, 2009 (74 FR 26303), and a parallel notice of availability of draft RGs (74 FR 26440) seeking public comment on draft RG 1.147, Revision 16, requested that the NRC reconsider the conditions placed on Code Case N–619, ''Alternative Requirements for Nozzle Inner Radius Inspections for Class 1 Pressurizer and Steam Generator Nozzles,'' and Code Case N–648–1, ''Alternative Requirements for Inner Radius Examination of Class 1 Reactor Pressure Vessel Nozzles.'' The comment states that the conditions on the two Code Cases requiring a wire standard to demonstrate the resolution capability of remote visual examination systems should be changed to the ASME 0.044-inch characters because those characters have been recognized to be a better resolution standard than the wire standard.

Because Code Case N–619 and Code Case N–648–1 were not part of the June 2, 2009, proposed rule and the changes reflected in N–619 and N–648–1 are significant; the NRC did not adopt the public comment to use characters rather than the wire standard.

The NRC is addressing the comment as part of this rulemaking. The NRC agrees with the 2009 comment that characters have been demonstrated to be a better resolution standard than the wire standard. However, the NRC believes that the shift to characters should be part of broader changes to the visual testing standards. Visual examinations are used in certain situations as alternatives to volumetric and/or surface examination tests where it is not possible to conduct volumetric examination (e.g., where there are limitations due to access or geometry) or to reduce occupational exposure in high radiation fields. Visual testing experts had believed that if the camera and lighting were sufficient to see a 12 μm (0.0005 in.) diameter wire, then the camera system had a resolution sufficiently high for the inspection. Subsequent investigation of the effectiveness and reliability of visual examinations has shown that the wire resolution standard is not sufficient to determine the visual acuity of a remote system (i.e., there are important differences between visually detecting a wire and a crack). Research conducted at the Pacific Northwest National Laboratory showed that other calibration standards should be adapted for visual testing such as reading charts and resolution targets. Results supporting this recommendation were published in NUREG/CR–6943, ''A Study of Remote Visual Methods to Detect Cracking in Reactor Components'' (ADAMS Accession No. ML073110060). As also discussed in the report, other parameters such as crack size, lighting conditions, camera resolution, and surface conditions were assessed. The NRC concluded from the investigation that a significant fraction of the cracks that have been reported in nuclear power plant components are at the lower end of the capabilities of the visual testing equipment currently being used. Code Case N–619 addresses the examination of the nozzle inner radius of Class 1 pressurizers and steam generators. Code Case N–648–1 provides an alternative for examining the inner radius of Class 1 reactor vessel nozzles. The NRC investigation of crack opening dimensions of service-induced cracks in nuclear components included thermal fatigue, mechanical fatigue, and stress corrosion cracks. The NRC concluded that current visual testing systems may not reliably detect a significant number of these cracks, and the research results showed that detection of these cracks under field conditions is strongly dependent on camera magnification, lighting, inspector training, and inspector vigilance. While this research supports the use of characters in lieu of a wire standard, the research also showed that other changes should be considered to visual testing as related to these two Code Cases. The NRC and the Electric Power Research Institute (EPRI) are currently conducting a collaborative

research project investigating these parameters. The results of the collaborative research will be assessed by the NRC and the industry to determine what changes should be made to visual testing requirements in the future.

The comment also indicated that it is unclear how allowable flaw lengths would be determined from Table IWB–3512–1. The condition on the two Code Cases states that ''licensees may perform a visual examination with enhanced magnification that has a resolution sensitivity to detect a 1-mil width wire or crack, utilizing the allowable flaw length criteria of Table IWB–3512–1 with limiting assumptions on the flaw aspect ratio.'' Table IWB–3512–1 does not specifically provide allowable flaw length criteria. The commenter recommended that the acceptance criteria be modified as following: ''Crack-like surface flaws exceeding the acceptance criteria of Table IWB–3510–3 are unacceptable for continued service unless the vessel meets the requirements of IWB–2142.2, IWB–3142.3, or IWB–3142.4. The component thickness, t, to be applied in calculating the allowable surface flaw, I, in Table IWB–3510–3 shall be selected as specified in Table IWB–3512–2.''

The NRC does not agree with the suggestion. Table IWB–3512–1 was selected because it is the only table that considers the inside corner region. In determining an acceptable flaw size, the limiting aspect ratio is assumed, which is 0.5. The surface flaw allowable size divided by the limiting aspect ratio yields the limiting surface flaw size in terms of the l/t. In the case of wall thickness sizes provided in Table IWB–3512–1, the acceptance criteria are the same as those in Table IWB–3510–3. The NRC does not intend to make any changes to the table referred to for acceptance criteria, because Table IWB–3512–1 is the only table to refer to the inside corner region.

Finally, the commenter believes that the condition on Code Case N–648–1 describing the surfaces to be examined is unnecessary because the Code Case describes the same examination surfaces. The NRC agrees and proposes to eliminate this condition in Table 2 of DG–1231/RG 1.147, Revision 17.

Code Case N–702

Type: New

Title: *Alternative Requirements for Boiling Water Reactor (BWR) Nozzle Inner Radius and Nozzle-to-Shell Welds, Section XI, Division 1*

Published: Supplement 12, 2001 Edition

Two comments on the proposed rule published on June 2, 2009 (74 FR 26303), and a parallel notice of availability of draft RGs (74 FR 26440) seeking public comment on draft RG 1.147, Revision 16, requested that Code Case N–702, ''Alternative Requirements for Boiling Water Reactor (BWR) Nozzle Inner Radius and Nozzle-to-Shell Welds, Section XI, Division 1,'' be conditionally approved in the final guide. Code Case N–702 had been listed in draft RG 1.193, Revision 3, ''ASME Code Cases Not Approved for Use,'' because at the time that draft Revision 16 to RG 1.147 was published (October 2007), the NRC staff was considering the industry response to the NRC staff's request for additional information relative to the acceptability of ''BWRVIP–108: BWR Vessel and Internals Project (VIP), Technical Basis for the Reduction of Inspection Requirements for the Boiling Water Reactor Nozzle-to-Vessel Shell Welds and Nozzle Blend Radii,'' EPRI Technical Report 1003557, October 2002 (ADAMS Accession No. ML023330203). BWRVIP–108 provides the technical basis supporting Code Case N–702. Subsequently, the NRC conditionally approved a licensee's request to use the Code Case on the basis of the NRC's Safety Evaluation (ADAMS Accession No. ML073600374; December 18, 2007).

The Safety Evaluation discussed the NRC's review of BWRVIP–108 and the conditions under which it could be used. The commenters believed that the conditions in the Safety Evaluation provided a basis for the NRC to conditionally approve Code Case N–702 in final RG 1.147, Revision 16. The NRC did not adopt the public comment to approve the Code Case in final Revision 16 to RG 1.147. Code Case N–702 is an alternative to provisions in the ASME Code to reduce the inspection requirements of BWR reactor vessel nozzle-to-shell welds and nozzle blend radii. BWRVIP–108 discusses the probabilistic fracture mechanics evaluation that was performed to demonstrate that the probability of failure considering these inspection changes meets NRC requirements. While the NRC believes that the Safety Evaluation and BWRVIP report provide a basis for conditionally approving the Code Case on a generic basis, the NRC did not believe that it would have been appropriate to move the Code Case from RG 1.193 to RG 1.147 without first having sought public comment. Thus, the NRC is proposing to conditionally approve Code Case N–702 in DG–1231/RG 1.147, Revision 17, based on the conditions that were discussed in the Safety Evaluation. The applicability of Code Case N–702 must be shown by demonstrating that the criteria in Section 5.0 of the NRC Safety Evaluation regarding BWRVIP–108 dated December 18, 2007, are met. The evaluation demonstrating the applicability of the Code Case must be reviewed and approved by the NRC prior to the application of the Code Case.

Code Case N–747

Type: New

Title: *Reactor Vessel Head-to Flange Weld Examinations, Section XI, Division 1*

Published: Supplement 9, 2004 Edition

A comment on the proposed rule published on June 2, 2009 (74 FR 26303), and a parallel notice of availability of draft RGs (74 FR 26440) seeking public comment on draft RG 1.147, Revision 16, suggested that the basis for listing Code Case N–747, ''Reactor Vessel Head-to Flange Weld Examinations, Section XI, Division 1,'' in draft RG 1.193 was flawed, and that the Code Case should be unconditionally accepted in final Revision 16. Additional technical information to support approval of the Code Case was provided in the comment letter (ADAMS Accession No. ML092190138). The NRC did not adopt the public comment to list Code Case N–747 in final Revision 16 to RG 1.147 (incorporated by reference in the final rule published on October 5, 2010, (75 FR 61321)), because the NRC determined that the public should have an opportunity to comment on the additional information that was submitted by the commenter.

The NRC has reviewed the information provided in the comment, which deals with the expected fluence levels of reactor vessel head-to-flange welds. Based on this information, the NRC believes that an adequate technical basis has been provided to support a conclusion that the fracture toughness will remain high. The key points discussed in the additional information are that calculations show that the fluence in the upper head region will be low, even after 60 years of service. Therefore, there will be no irradiation induced change in RT_{NDT}. In addition, the industry has calculated RT_{NDT} for the upper head region for early Westinghouse plant designs using the Standard Review Plan (NUREG–0800) and determined that the fracture toughness is high. Therefore, the NRC proposes to unconditionally approve

Code Case N–747 in Table 1 of DG–1231/RG 1.147, Revision 17.

D. ASME Code Cases Not Approved for Use

The ASME Code Cases that are currently issued by the ASME but not approved for generic use by the NRC are listed in RG 1.193, ''ASME Code Cases Not Approved for Use.'' In addition to ASME Code Cases that the NRC has found to be technically or programmatically unacceptable, RG 1.193 includes Code Cases on reactor designs for high-temperature gas-cooled reactors and liquid metal reactors, reactor designs not currently licensed by the NRC, and certain requirements in Section III, Division 2, for submerged spent fuel waste casks, that are not endorsed by the NRC. Regulatory Guide 1.193 complements RGs 1.84, 1.147, and 1.192. It should be noted that RG 1.193 is not part of this rulemaking because the NRC is not proposing to adopt any of the Code Cases listed in that RG. Comments have been submitted in the past, however, on certain Code Cases listed in RG 1.193 where the commenter believed that additional technical information was available that might not have been considered by the NRC in its determination not to approve the use of these Code Cases. While the NRC will consider those comments, any changes in the NRC's non-approval of such Code Cases will be the subject of an additional opportunity for public comment.

IV. Petition for Rulemaking (PRM–50–89)

On December 14, 2007, Mr. Raymond West (the petitioner) submitted a PRM requesting the NRC to amend 10 CFR 50.55a to allow consideration of alternatives to the ASME BPV and OM Code Cases. The petitioner submitted an amended petition on December 19, 2007 (ADAMS Accession No. ML073600974). The petition was docketed by the NRC as PRM–50–89. The petitioner requested that the regulations be amended to provide applicants and licensees a process for requesting NRC approval of changes or modifications to ASME Code Cases that are listed in the relevant NRC-approved RGs cited in the current regulations. The petitioner stated that the current requirements do not allow changes or modifications to be proposed as alternatives to NRC-approved ASME Code Cases, and asserted that such changes or modifications should be allowed as alternatives to NRC Code Cases. Overall, the petitioner requested that the regulations be amended to allow applicants and licensees to request authorization of NRC-approved Code Cases with proposed modifications directly through § 50.55a(a)(3).

The NRC believes that Code Cases often provide alternatives that have technical merit and, in many instances, are incorporated into future ASME Code editions. The ASME Code Case process itself constitutes a method of how an applicant or licensee can seek to obtain ASME approval for a variation of a previously-approved Code provision. Section 50.55a(a)(3) currently provides specific approaches for obtaining NRC authorization of alternatives to ASME Code provisions. Inasmuch as ASME Code Cases are analogous to ASME Code provisions, it is not unreasonable to provide an analogous regulatory approach for obtaining NRC authorization of alternatives to ASME Code Cases. For these reasons, the NRC determined that the issues raised in this PRM should be considered in the NRC's rulemaking process, and the NRC published a FRN with this determination on April 22, 2009 (74 FR 18303). Accordingly, the NRC is addressing PRM–50–89 in this proposed rule.

On the basis of the previous discussion, the NRC is proposing to include language in proposed 10 CFR 50.55a(z) (existing 50.55a(a)(3)) that would allow applicants and licensees to request authorization of alternatives for changes to conditions on NRC-approved ASME Code Cases in current paragraphs (b)(4), (b)(5), and (b)(6) of § 50.55a. In addition, the NRC proposes extending the scope of the petitioner's request for allowing alternatives to NRC-approved Code Case conditions to allow applicants and licensees to request authorization of alternatives for changes to conditions on Section III and XI of the ASME BPV Code and OM Code in current paragraphs (b)(1), (b)(2), and (b)(3).

V. Changes Addressing Office of the Federal Register Guidelines on Incorporation by Reference

This proposed rule includes changes to 10 CFR 50.54, 50.55, and 50.55a. These changes were made in accordance with the guidance for incorporation by reference of multiple standards that is included in Chapter 6 of the OFR's ''Federal Register Document Drafting Handbook,'' January 2011 Revision. This latest revision of the OFR's guidance provides several options for incorporating by reference multiple standards into regulations.

The NRC proposes to incorporate by reference, in a single paragraph, the multiple standards mentioned in 10 CFR 50.55a. For the least disruption to the existing structure of the section, the NRC proposes to incorporate by reference the multiple standards into 10 CFR 50.55a(a), the first paragraph of the section. Each national consensus standard that is being incorporated by reference in 10 CFR 50.55a has been listed separately. Accordingly, the regulatory language of 10 CFR 50.54, 50.55, and 50.55a has been reorganized by moving existing paragraphs, creating new paragraphs, and revising introductory and regulatory texts.

The NRC has made conforming changes to references throughout 10 CFR 50.55a to reflect this reorganization. A detailed discussion of the affected paragraphs, other than the aforementioned reference changes, is provided in Section VII, ''Paragraph-by-Paragraph Discussion,'' of this document. The regulatory text of 10 CFR 50.55a has been set out in its entirety for the convenience of the reader. The staff has also developed reader aids to help users understand these changes (see Section VI of this document.)

VI. Addition of Headings to Paragraph

The NRC is proposing to add headings (explanatory titles) to paragraphs and all lower-level subparagraphs of 10 CFR 50.55a. These headings are intended to enhance the readers' ability to identify the paragraphs (e.g., paragraphs (a), (b), (c)) and subparagraphs with the same subject matter. The NRC's proposal addresses longstanding complaints by external and internal stakeholders on the readability and complex structure of the requirements in 10 CFR 50.55a. To address this concern, the NRC evaluated a range of solutions, including the creation of new regulations and relocation of existing requirements from 10 CFR 50.55a to the new regulations.

Some alternatives the NRC considered were a new regulation adjacent to 10 CFR 50.55a (e.g., §§ 50.55b, 50.55c, 50.55d), a new subpart containing a new series of regulations at the end of 10 CFR part 50 (e.g., subpart B beginning at § 50.200, and continuing with §§ 50.201, 50.202, 50.203), or a new part (designated for codes and standards) containing a new series of regulations addressing codes and standards approved for incorporation by reference by the OFR. The relocation of each existing requirement to a new regulation (or set of regulations) would follow a set of organizing principles established by the NRC after consideration of stakeholder's views.

Upon consideration of these alternatives, the NRC decided that these alternatives should not be adopted—at least not at this time without further stakeholder input—and instead that the

NRC should develop and adopt headings for paragraphs and subparagraphs. The primary reason for the NRC's decision is external stakeholders' objections to a previous attempt by the NRC to re-designate paragraphs in § 50.55a (75 FR 24324; May 4, 2010). As the NRC understands it, many nuclear power plant licensees' procedures reference specific paragraphs and subparagraphs of § 50.55a. It would require substantial rewriting of these procedures and documents to correct the references to the old (superseded) section, paragraphs and subparagraphs. In addition, currently-approved design certification rules may require conforming amendments to be made to correct references to ASME Code provisions on design (and possibly ISI and IST).

The NRC requests public comment on whether the NRC should adopt one of these approaches, either as a follow-on activity to the addition of headings, or as a substitute for the addition of headings. The most helpful comments would identify a specific approach, and set forth the reasons why the proposed approach should be adopted, taking into account the factors considered by the NRC in selecting the headings approach.

NRC's Proposal: Convention for Headings and Subheadings

The NRC is proposing to add headings to all first, second, third, fourth, and some fifth-level paragraphs for certain sections of 10 CFR 50.55a to add clarity and a user-friendly method for following sublevel contents within a regulation. The proposed heading for a fourth-level would follow the same convention, but may designate the provision number only. Fifth-level paragraphs are proposed for only newly incorporated Code Cases. Each first-level paragraph (designated using letters, (e.g., (a), (b), (c))) would have a heading that concisely describes the general subject matter addressed in that paragraph. Each second-level paragraph (designated using numbers, e.g., (1), (2), (3)) would have a heading comprised of a summary of the first-level paragraph's heading and a semicolon (''; ''), followed by a concise description of the subject matter addressed in the second paragraph. The proposed heading for a third-level paragraph would follow the same convention (i.e., a heading comprised of a summary level of the higher-level paragraph's title and a semicolon, followed by a concise description of the subject matter addressed in that subparagraph). The proposed heading for a fourth-level paragraph would follow the same convention, but may designate the provision number only. The proposed fifth-level paragraph is applied to only paragraph (a) for incorporation by reference of approved editions and addenda to the ASME BPV and OM Codes.

Reader Aids

The staff has developed a table showing the proposed structure of 10 CFR 50.55a. This table, ''Proposed Reorganization of Paragraphs and Subparagraphs in 10 CFR 50.55a, Codes and standards'' (ADAMS Accession No. ML12289A121) is available in a separate document and outlines the section showing all paragraph designations, including the new paragraph headings. The staff has also developed Cross-Reference tables showing the current designations for 10 CFR 50.54, 50.55, and 50.55a regulations and the proposed designations for these sections. These tables contain the new headings and a description of each change and are available in a separate document (ADAMS Accession No. ML12289A114).

VII. Paragraph-by-Paragraph Discussion

Section 50.54

In § 50.54, the introductory statement would be revised to include a reference to § 50.55a. This revision would clarify that nuclear power plant licensees, as described in the introductory paragraph of § 50.54, also are subject to the applicable requirements delineated in § 50.55a. In addition, the NRC proposes to revise the introductory text of this section, add and reserve paragraph (ii), and add paragraph (jj) to include a condition of every license. This requirement is currently contained in § 50.55a(a)(1), and no change to the requirement is intended by the transfer of this requirement from § 50.55a(a)(1) to § 50.54(jj).

Section 50.55

In § 50.55, the introductory text would be revised to include references to existing § 50.55a, and paragraphs (g) and (h) would be added and reserved for future use. Further, existing § 50.55a(a)(1) would be moved to a newly created § 50.55(i).

Section 50.55a

In § 50.55a, the current introductory statement would be relocated to § 50.54(jj), 50.55(i), and 50.55a.

Paragraph (a)

A new paragraph (a) would be created in § 50.55a to incorporate by reference the multiple standards currently identified in existing § 50.55a. The heading would be revised to read ''Documents approved for incorporation by reference.''

Paragraph (a)(1): This paragraph ''American Society of Mechanical Engineers (ASME)'' would be added to group all ASME Sections.

Paragraph (a)(1)(i): This paragraph, *''ASME Boiler and Pressure Vessel Code, Section III,''* would be added to discuss the availability of standards referenced in current paragraph (b)(1). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(i)(A): This paragraph, *''Rules for Construction of Nuclear Vessels,''* would be added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(i)(B): This paragraph, *''Rules for Construction of Nuclear Power Plant Components,''* would be added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(i)(C): This paragraph, ''*Division I Rules for Construction of Nuclear Power Plant Components,''* would be added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(i)(D): This paragraph, *''Rules for Construction of Nuclear Power Plant Components—Division 1,''* would be added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(i)(E): This paragraph, *''Rules for Construction of Nuclear Facility Components—Division 1,''* would be added to group all the individual standards referenced regarding the subject matter included in

current paragraph (b)(1). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(ii)(A): This paragraph, *''Rules for Inservice Inspection of Nuclear Reactor Coolant Systems,''* would be added to discuss the availability of individual standards referenced regarding the subject matter included in current paragraph (b)(2). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(ii)(B): This paragraph, *''Rules for Inservice Inspection of Nuclear Power Plant Components,''* would be added to discuss the availability of individual standards referenced regarding the subject matter included in current paragraph (b)(2). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(ii)(C): This paragraph, *''Rules for Inservice Inspection of Nuclear Power Plant Components—Division 1,''* would be added to discuss the availability of individual standards referenced regarding the subject matter included in current paragraph (b)(2). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(iii): This paragraph, *''ASME Code Cases: Nuclear Components,''* would be added to discuss the newly approved Code Cases referenced regarding the subject matter in current paragraph (b). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(iii)(A): This paragraph, *''ASME Code Case N–722–1,''* would be added to discuss the newly approved Code Case referenced regarding the subject matter in current paragraph (b). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(iii)(B): This paragraph, *''ASME Code Case N–729–1,''* would be added to discuss the newly approved Code Case referenced regarding the subject matter in current paragraph (b). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(iii)(C): This paragraph, *''ASME Code Case N–770–1,''* would be added to discuss the newly approved Code Case referenced regarding the subject matter in current paragraph (b). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(iv): This paragraph, *''ASME Operation and Maintenance Code,''* would be added to group all the individual standards referenced in current paragraph (b). This change would bring the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraph (a)(1)(iv)(A): This paragraph, *''Code for Operation and Maintenance of Nuclear Power Plants,''* would be added to group all the individual standards referenced in current paragraph (b).

Paragraph (a)(1)(iv)(B): This paragraph would be added and reserved for future use.

Paragraph (a)(2): This paragraph, *''Institute of Electrical and Electronics Engineers (IEEE) Service Center,''* would be added to list all IEEE sections.

Paragraph (a)(2)(i): This paragraph, *''IEEE Standard 279–1971,''* would be added to discuss the availability of standards referenced in current paragraph (h)(2). This would be done in compliance with OFR revised guidelines for incorporation by reference standards in regulations.

Paragraph (a)(2)(ii): This paragraph, *''IEEE Standard 603–1991,''* would be added to discuss the availability of the standard referenced in current paragraph (h)(2) and (h)(3). This would be done in compliance with OFR revised guidelines for incorporation by reference standards in regulations.

Paragraph (a)(2)(iii): This paragraph, *''IEEE Standard 603–1991 correction sheet,''* would be added to discuss the availability of the standard referenced in current paragraphs (h)(2) and (h)(3). This would be done in compliance with OFR revised guidelines for incorporation by reference standards in regulations.

Paragraph (a)(3): This paragraph, *''U.S. Nuclear Regulatory Commission (NRC) Reproduction and Distribution Services Section,''* lists all regulatory guides being incorporated by reference. This would be done in compliance with OFR revised guidelines for incorporation by reference standards in regulations.

Paragraph (a)(3)(i): This paragraph, *''NRC Regulatory Guide 1.84, Revision 36,''* would be added to discuss the availability of the standard. This would be done in compliance with OFR revised guidelines for incorporation by reference standards in regulations.

Paragraph (a)(3)(ii): This paragraph, *''NRC Regulatory Guide 1.147, Revision 17,''* would be added to discuss the availability of the standard. This would be done in compliance with OFR revised guidelines for incorporation by reference standards in regulations.

Paragraph (a)(3)(iii): This paragraph, *''NRC Regulatory Guide 1.192, Revision 1,''* would be added to discuss the availability of the standard. This would be done in compliance with OFR revised guidelines for incorporation by reference standards in regulations.

Paragraph (b): The paragraph heading would be revised to *''Use and conditions on the use of standards.''* The contents would be moved, in part, to 50.55a(a) for compliance with OFR revised guidelines for incorporation by reference standards in regulations.

Paragraph (c): Introductory text would be added to the existing paragraph (c). Explanatory headings would be added for subparagraphs.

Paragraph (d): The new paragraph would add introductory text to *''Quality Group B components,''* as part of the NRC initiative of adding headings and providing clarity. Explanatory headings would be added for subparagraphs.

Paragraph (e): The new paragraph would add introductory text to *''Quality Group C components,''* as part of the NRC initiative of adding headings and providing clarity. Explanatory headings would be added for subparagraphs.

Paragraph (f): Introductory text would be revised and expanded in *''Inservice testing requirements,''* as part of the NRC initiative of adding headings and providing clarity. Explanatory headings would be added for subparagraphs.

Paragraph (g): Introductory text would be revised and expanded in *''Inservice inspection requirements,''* as part of the NRC initiative of adding headings and providing clarity. Explanatory headings would be added for subparagraphs.

Paragraphs (b)(5), (f)(2), (f)(3)(iii)(A), (f)(3)(iv)(A), (f)(4)(ii), (g)(2), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(4)(ii): References to the revision number for RG 1.147 would be changed from ''Revision 16'' to ''Revision 17.''

Paragraph (h)(1): This paragraph would be designated as reserved because the informational content from

current (h)(1) would be moved to proposed paragraph (a)(2).

Paragraphs (i)–(y): The paragraphs would be added and reserved for future use.

Paragraph (z): This paragraph would be added to contain information that would be relocated from the introductory text of current paragraph (a)(3) and current subparagraphs (a)(3)(i)–(ii) as a result of the NRC's compliance with the OFR's revised guidelines for incorporating by reference. Paragraph (z) would also be revised to allow applicants and licensees to request alternatives to the requirements in paragraph (b) of this section.

Overall Considerations on the Use of ASME Code Cases

This rulemaking would amend 10 CFR 50.55a to incorporate by reference RG 1.84, Revision 36, which would supersede Revision 35; RG 1.147, Revision 17, which would supersede Revision 16; and RG 1.192, Revision 1, which would supersede Revision 0. The following general guidance applies to the use of the ASME Code Cases approved in the latest versions of the RGs that are incorporated by reference into 10 CFR 50.55a as part of this rulemaking.

The approval of a Code Case in the NRC RGs constitutes acceptance of its technical position for applications that are not precluded by regulatory or other requirements or by the recommendations in these or other RGs. The applicant and/or licensee are responsible for ensuring that use of the Code Case does not conflict with regulatory requirements or licensee commitments. The Code Cases listed in the RGs are acceptable for use within the limits specified in the Code Cases. If the RG states an NRC condition on the use of a Code Case, then the NRC condition supplements and does not supersede any condition(s) specified in the Code Case, unless otherwise stated in the NRC condition.

The ASME Code Cases may be revised for many reasons, (e.g., to incorporate operational examination and testing experience and to update material requirements based on research results). On occasion, an inaccuracy in an equation is discovered or an examination, as practiced, is found not to be adequate to detect a newly discovered degradation mechanism. Hence, when an applicant or a licensee initially implements a Code Case, 10 CFR 50.55a requires that the applicant or the licensee implement the most recent version of that Code Case as listed in the RGs incorporated by reference. Code Cases superseded by revision are no longer acceptable for new applications unless otherwise indicated.

Section III of the ASME BPV Code applies only to new construction (i.e., the edition and addenda to be used in the construction of a plant are selected based on the date of the construction permit and are not changed thereafter, except voluntarily by the applicant or the licensee). Hence, if a Section III Code Case is implemented by an applicant or a licensee and a later version of the Code Case is incorporated by reference into 10 CFR 50.55a and listed in the RGs, the applicant or the licensee may use either version of the Code Case (subject, however, to whatever change requirements apply to its licensing basis, (e.g., 10 CFR 50.59)).

A licensee's ISI and IST programs must be updated every 10 years to the latest edition and addenda of Section XI and the OM Code, respectively, that were incorporated by reference into 10 CFR 50.55a and in effect 12 months prior to the start of the next inspection and testing interval. Licensees who were using a Code Case prior to the effective date of its revision may continue to use the previous version for the remainder of the 120-month ISI or IST interval. This relieves licensees of the burden of having to update their ISI or IST program each time a Code Case is revised by the ASME and approved for use by the NRC. Code Cases apply to specific editions and addenda, and Code Cases may be revised if they are no longer accurate or adequate, so licensees choosing to continue using a Code Case during the subsequent ISI or IST interval must implement the latest version incorporated by reference into 10 CFR 50.55a and listed in the RGs.

The ASME may annul Code Cases that are no longer required, are determined to be inaccurate or inadequate, or have been incorporated into the BPV or OM Codes. If an applicant or a licensee applied a Code Case before it was listed as annulled, the applicant or the licensee may continue to use the Code Case until the applicant or the licensee updates its construction Code of Record (in the case of an applicant, updates its application) or until the licensee's 120-month ISI or IST update interval expires, after which the continued use of the Code Case is prohibited unless NRC authorization is given under the current 10 CFR 50.55a(a)(3). If a Code Case is incorporated by reference into 10 CFR 50.55a and later annulled by the ASME because experience has shown that the design analysis, construction method, examination method, or testing method is inadequate; the NRC will amend 10 CFR 50.55a and the relevant RG to remove the approval of the annulled Code Case. Applicants and licensees should not begin to implement such annulled Code Cases in advance of the rulemaking.

A Code Case may be revised, for example, to incorporate user experience. The older or superseded version of the Code Case cannot be applied by the licensee or applicant for the first time.

If an applicant or a licensee applied a Code Case before it was listed as superseded, the applicant or the licensee may continue to use the Code Case until the applicant or the licensee updates its construction Code of Record (in the case of an applicant, updates its application) or until the licensee's 120-month ISI or IST update interval expires, after which the continued use of the Code Case is prohibited unless NRC authorization is given under proposed 10 CFR 50.55a(z). If a Code Case is incorporated by reference into 10 CFR 50.55a and later a revised version is issued by the ASME because experience has shown that the design analysis, construction method, examination method, or testing method is inadequate; the NRC will amend 10 CFR 50.55a and the relevant RG to remove the approval of the superseded Code Case. Applicants and licensees should not begin to implement such superseded Code Cases in advance of the rulemaking.

VIII. Plain Writing

The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

IX. Availability of Documents

The NRC is making the documents identified in Table II available to interested persons through one or more of the following methods, as indicated. To access documents related to this action, see the **ADDRESSES** section of this document.

TABLE II

Document	PDR	WEB	NRC Library.
Proposed Rule—Regulatory Analysis	X	X	ML103060189.
Proposed Rule **Federal Register** Notice	X	X	ML103060003.
Proposed Reorganization of Paragraphs and Subparagraphs	X	X	ML12289A121.
Cross-Reference Tables	X	X	ML12289A114.
RG 1.84, Revision 36 (DG–1230)	X	X	ML102590003.
RG 1.147, Revision 17 (DG–1231)	X	X	ML102590004.
RG 1.192, Revision 1 (DG–1232)	X	X	ML102600001.
RG 1.200, Revision 2, An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-informed Activities.	X	X	ML090410014.
RG 1.201, Revision 1, Guidelines for Categorizing Structures, Systems, and Components in Nuclear Power Plants According to Their Safety Significance.	X	X	ML061090627.
2007/12/19—Petition for Rulemaking PRM–50–89 submitted by Ray West regarding, "To Amend CFR 5–.55a—Codes and Standards—Revision 1".	X	X	ML073600974.
Hatch Plant Report—Hatch, Units 1 & 2, Farley, Units 1 & 2, Vogtle, Units 1 & 2, Safety Evaluation Re. Request to Use ASME Code Case N–661.	X	X	ML033280037.
EPRI Technical Report—Project No. 704—BWRVIP–108: BWR Vessel & Internals Project, Technical Basis for Reduction of Inspection Requirements for Boiling Water Reactor Nozzle-to-Vessel Shell Welds & Nozzle Blend Radii.	X	X	ML023330203.
Safety Evaluation of Proprietary EPRI Report—BWR Vessel and Internals Project, Technical Basis for the Reduction of Inspection Requirements for the Boiling Water Reactor Nozzle-to-Vessel Shell Welds and Nozzle Inner Radius (BWRVIP–108).	X	X	ML073600374.
Comment Letter—Comment (4) of Bryan A. Erler on Behalf of ASME Supporting Draft Regulatory Guides DG–1191, DG–1192, DG–1193, and the Proposed Rule Incorporating the Final Revisions of these Regulatory Guides into 10 CFR 50.55a.	X	X	ML092190138.
SRM–COMNJD–03–0002—Stabilizing the PRA Quality Expectations and Requirements	X	X	ML033520457.
SECY–04–0118—Plan for the Implementation of the Commission's Phased Approach to Probabilistic Risk Assessment Quality.	X	X	ML041470505.
SRM–SECY–04–0118—Plan for the Implementation of the Commission's Phased Approach to Probabilistic Risk Assessment Quality.	X	X	ML042800369.
NUREG–0800—Chapter 4, Section 4.5.1, Revision 3, Control Rod Drive Structural Materials, dated March 2007.	X	X	ML070230007.
NUREG–0800—Chapter 5, Section 5.2.3, Revision 3, Reactor Coolant Pressure Boundary Materials, dated March 2007.	X	X	ML063190006.
NUREG/CR–6943—A Study of Remote Visual Methods to Detect Cracking in Reactor Components	X	X	ML073110060.

X. Voluntary Consensus Standards

Section 12(d)(3) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, and implementing guidance in U.S. Office of Management and Budget (OMB) Circular A–119 (February 10, 1998), require each Federal government agency (should it decide that regulation is necessary) to use a voluntary consensus standard instead of developing a government-unique standard. An exception to using a voluntary consensus standard is allowed where the use of such a standard is inconsistent with applicable law or is otherwise impractical. The NTTAA requires Federal agencies to use industry consensus standards to the extent practical; it does not require Federal agencies to endorse a standard in its entirety. Neither the NTTAA nor OMB Circular A–119 prohibit an agency from adopting a voluntary consensus standard while taking exception to specific portions of the standard, if those provisions are deemed to be "inconsistent with applicable law or otherwise impractical." Furthermore, taking specific exceptions furthers the Congressional intent of Federal reliance on voluntary consensus standards because it allows the adoption of substantial portions of consensus standards without the need to reject the standards in their entirety because of limited provisions that are not acceptable to the agency.

In this rulemaking, the NRC is continuing its existing practice of approving the use of ASME BPV and OM Code Cases, which are ASME-approved alternatives to compliance with various provisions of the ASME BPV and OM Code. The NRC's approval of the ASME Code Cases is accomplished by amending the NRC's regulations to incorporate by reference the latest revisions of the following, which are the subject of this rulemaking, into 10 CFR 50.55a: RG 1.84, "Design, Fabrication, and Materials Code Case Acceptability, ASME Section III," Revision 36; RG 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," Revision 17; and RG 1.192, "Operation and Maintenance Code Case Acceptability, ASME Code," Revision 1. These RGs list the ASME Code Cases that the NRC has approved for use. The ASME Code Cases are national consensus standards as defined in the NTTAA and OMB Circular A–119. The ASME Code Cases constitute voluntary consensus standards, in which all interested parties (including the NRC and licensees of nuclear power plants) participate. Therefore, the NRC's approval of the use of the ASME Code Cases identified in RGs 1.84, Revision 36; RG 1.147, Revision 17; and RG 1.192, Revision 1, which are the subject of this rulemaking, is consistent with the overall objectives of the NTTAA and OMB Circular A–119.

The NRC reviews each Section III, Section XI, and OM Code Case published by the ASME to ascertain whether it is consistent with the safe operation of nuclear power plants. The Code Cases found to be generically acceptable are listed in the RGs that are incorporated by reference in 10 CFR 50.55a. The Code Cases found to be unacceptable are listed in RG 1.193, but licensees may still seek the NRC's approval to apply these Code Cases through the processes in 10 CFR 50.55a for requesting the approval of alternatives or for relief. Code Cases that the NRC finds to be conditionally acceptable are also listed in RGs 1.84,

1.147, and 1.192, which are the subject of this rulemaking, together with the conditions that must be used if the Code Case is applied. The NRC believes that this rule complies with the NTTAA and OMB Circular A–119 despite these conditions. If the NRC did not conditionally accept ASME Code Cases, it would disapprove these Code Cases entirely. The effect would be that licensees and applicants would submit a larger number of requests for use of alternatives under the current 10 CFR 50.55a(a)(3), requests for relief under 10 CFR 50.55a(f) and (g), or requests for exemptions under 10 CFR 50.12 and/or 10 CFR 52.7. For these reasons, the treatment of ASME Code Cases and any conditions proposed to be placed on them in this proposed rule do not conflict with any policy on agency use of consensus standards specified in OMB Circular A–119.

The NRC did not identify any other voluntary consensus standards developed by the United States voluntary consensus standards bodies for use within the United States that the NRC could approve instead of the ASME Code Cases.

The NRC also did not identify any voluntary consensus standards developed by multinational voluntary consensus standards bodies for use on a multinational basis that the NRC could incorporate by reference instead of the ASME Code Cases. This is because no other multinational voluntary consensus body would develop alternatives to a voluntary consensus standard (i.e., either the ASME BPV Code or the ASME OM Code) for which they did not develop and do not maintain.

In summary, this proposed rule satisfies the requirements of Section 12(d)(3) of the NTTAA and OMB Circular A–119.

XI. Finding of No Significant Environmental Impact: Environmental Assessment

This proposed action stems from the Commission's practice of incorporating by reference the RGs listing the most recent set of NRC-approved ASME Code Cases. The purpose of this proposed action is to allow licensees to use the Code Cases listed in the RGs as alternatives to requirements in the ASME BPV and OM Codes for the construction, ISI, and IST of nuclear power plant components. This proposed action is intended to advance the NRC's strategic goal of ensuring adequate protection of public health and safety and the environment. It also demonstrates the agency's commitment to participate in the national consensus standards process under the National Technology Transfer and Advancement Act of 1995, Pub. L.104–113.

The National Environmental Policy Act (NEPA), as amended, requires Federal government agencies to study the impacts of their ''major Federal actions significantly affecting the quality of the human environment'' and prepare detailed statements on the environmental impacts of the action and alternatives to the action (United States Code (U.S.C), Volume 42, Section 4332(C) [42 U.S.C. Sec. 4332(C)]; NEPA Sec. 102(C)).

The Commission has determined under NEPA, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this proposed rule would not be a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

As alternatives to the ASME Code, NRC-approved Code Cases provide an equivalent level of safety. Therefore, the probability or consequences of accidents is not changed. There are also no significant, non-radiological impacts associated with this action because no changes would be made affecting non-radiological plant effluents and because no changes would be made in activities that would adversely affect the environment. The determination of this environmental assessment is that there will be no significant offsite impact to the public from this proposed action.

XII. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This rule has been submitted to the Office of Management and Budget (OMB) for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: Domestic Licensing of Production and Utilization Facilities: Updates to Incorporation by Reference and Regulatory Guides.

The form number if applicable: Not applicable.

How often the collection is required: On occasion.

Who will be required or asked to report: Power reactor licensees and applicants for power reactors under construction.

An estimate of the number of annual responses: -185.

The estimated number of annual respondents: 109.

An estimate of the total number of hours needed annually to complete the requirement or request: A reduction of 14,800 reporting hours.

Abstract: This proposed rule is the latest in a series of rulemakings that incorporate by reference the latest versions of several Regulatory Guides identifying new and revised unconditionally or conditionally acceptable ASME Code Cases that are approved for use. The incorporation by reference of these Code Cases will reduce the number of alternative requests submitted by licensees under proposed 10 CFR 50.55a(z) by an estimated 185 requests annually.

The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in this proposed rule (or proposed policy statement) and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

The public may examine and have copied for a fee publicly available documents, including the draft supporting statement at the NRC's PDR, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by July 24, 2013 to the Information Services Branch (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *INFOCOLLECTS.RESOURCE@NRC.GOV* and to the Desk Officer, Chad Whiteman, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0011), Office of Management and Budget, Washington, DC 20503. Comments on the proposed information collections may also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov,* docket # NRC–2009–0359. Comments received after this date will be considered if it is

practical to do so, but assurance of consideration cannot be given to comments received after this date. Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection unless the requesting document displays a currently valid OMB control number.

XIII. Regulatory Analysis

The ASME Code Cases listed in the RGs to be incorporated by reference provide voluntary alternatives to the provisions in the ASME BPV and OM Codes for design, construction, ISI, and IST of specific structures, systems, and components used in nuclear power plants. Implementation of these Code Cases is not required. Licensees and applicants use NRC-approved ASME Code Cases to reduce unnecessary regulatory burden or gain additional operational flexibility. It would be difficult for the NRC to provide these advantages independently of the ASME Code Case publication process without expending considerable additional resources. The NRC has prepared a regulatory analysis addressing the qualitative benefits of the alternatives considered in this proposed rulemaking and comparing the costs associated with each alternative (ADAMS Accession No. ML103060189). The NRC invites public comment on this draft regulatory analysis. Copies of the regulatory analysis are available to the public as indicated in Section IX, ''Availability of Documents,'' of this document.

In addition to the general opportunity to submit comments on the proposed rule, the NRC also requests comments on the NRC's cost and benefit estimates as shown in the proposed rule regulatory analysis.

XIV. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this proposed rule would not impose a significant economical impact on a substantial number of small entities. This proposed rule would affect only the licensing and operation of nuclear power plants. The companies that own these plants are not ''small entities'' as defined in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XV. Backfitting and Issue Finality

The provisions in this proposed rulemaking would allow licensees and applicants to voluntarily apply NRC-approved Code Cases, sometimes with NRC-specified conditions. The approved Code Cases are listed in three regulatory guides that are incorporated by references into 10 CFR 50.55a.

An applicant's and/or licensees voluntary application of an approved Code Cases does not constitute backfitting, inasmuch as there is no imposition of a new requirement or new position. Similarly, voluntary application of an approved Code Case by a part 52 applicant or licensee does not represent NRC imposition of a requirement or action which is inconsistent with any issue finality provision in part 52. For these reasons the NRC finds that this proposed rule does not involve any provisions requiring the preparation of a backfit analysis or documentation demonstrating that one or more of the issue finality criteria in part 52 are met.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for Part 50 continues to read as follows:

Authority: Atomic Energy Act secs. 102, 103, 104, 105, 147, 149, 161, 181, 182, 183, 186, 189, 223, 234 (42 U.S.C. 2132, 2133, 2134, 2135, 2167, 2169, 2201, 2231, 2232, 2233, 2236, 2239, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Nuclear Waste Policy Act sec. 306 (42 U.S.C. 10226); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 194 (2005). Section 50.7 also issued under Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 50.10 also issued under Atomic Energy Act secs. 101, 185 (42 U.S.C. 2131, 2235); National Environmental Policy Act sec. 102 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under Atomic Energy Act sec. 108 (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under Atomic Energy Act sec. 185 (42 U.S.C. 2235). Appendix Q also issued under National Environmental Policy Act sec. 102 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415 (42 U.S.C. 2239). Section 50.78 also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234).

■ 2. In § 50.54, revise the introductory text of the section, add and reserve paragraph (ii), and add paragraph (jj) to read as follows:

§ 50.54 Conditions of licenses.

The following paragraphs of this section, with the exception of paragraphs (r) and (gg), and the applicable requirements of 10 CFR 50.55a, are conditions in every nuclear power reactor operating license issued under this part. The following paragraphs with the exception of paragraph (r), (s), and (u) of this section are conditions in every combined license issued under part 52 of this chapter, provided, however, that paragraphs (i), (i–1), (j), (k), (l), (m), (n), (w), (x), (y), and (z) of this section are only applicable after the Commission makes the finding under § 52.103(g) of this chapter.

* * * * *

(ii) [Reserved]

(jj) Structures, systems, and components must be designed, fabricated, erected, constructed, tested, and inspected to quality standards commensurate with the importance of the safety function to be performed.

■ 3. In § 50.55, revise the introductory text of the section, add and reserve paragraphs (g) and (h), and add paragraph (i) to read as follows:

§ 50.55 Conditions of construction permits, early site permits, combined licenses, and manufacturing licenses.

Each construction permit is subject to the following terms and conditions and the applicable requirements of 10 CFR 50.55a; each early site permit is subject to the terms and conditions in paragraph (f) of this section; each manufacturing license is subject to the terms and conditions in paragraphs (e) and (f) of this section and the applicable requirements of 10 CFR 50.55a; and each combined license is subject to the terms and conditions in paragraphs (e) and (f) of this section and the applicable requirements of 10 CFR 50.55a until the date that the Commission makes the

finding under § 52.103(g) of this chapter:

* * * * *

(g) [Reserved]

(h) [Reserved]

(i) Structures, systems, and components must be designed, fabricated, erected, constructed, tested, and inspected to quality standards commensurate with the importance of the safety function to be performed.

■ 4. Revise § 50.55a to read as follows:

§ 50.55a Codes and standards.

(a) *Documents approved for incorporation by reference.* The standards listed in this paragraph have been approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR Part 51. The standards are available for inspection at the NRC Technical Library, 11545 Rockville Pike, Rockville, Maryland 20852; or 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.*

(1) *American Society of Mechanical Engineers* (*ASME*), Three Park Avenue, New York, NY 10016 (telephone 800–843–2763), *http://www.asme.org/Codes/*.

(i) *ASME Boiler and Pressure Vessel Code, Section III.* The editions and addenda for Section III of the ASME Boiler and Pressure Vessel Code are listed below, but limited to those provisions identified in paragraph (b)(1) of this section.

(A) ''*Rules for Construction of Nuclear Vessels:*''

(1) 1963 Edition,
(2) Summer 1964 Addenda,
(3) Winter 1964 Addenda,
(4) 1965 Edition
(5) 1965 Summer Addenda,
(6) 1965 Winter Addenda,
(7) 1966 Summer Addenda,
(8) 1966 Winter Addenda,
(9) 1967 Summer Addenda,
(*10*) *1967 Winter Addenda,*
(*11*) *1968 Edition,*
(*12*) *1968 Summer Addenda,*
(*13*)*1968 Winter Addenda,*
(*14*) *1969 Summer Addenda,*
(*15*) *1969 Winter Addenda,*
(*16*) *1970 Summer Addenda,* and
(*17*) *1970 Winter Addenda.*

(B) ''*Rules for Construction of Nuclear Power Plant Com*ponents:''

(*1*) *1971 Edition,*
(*2*) *1971 Summer Addenda,*
(*3*) *1971 Winter Addenda,*
(*4*) *1972 Summer Addenda,*
(*5*) *1972 Winter Addenda,*
(*6*) *1973 Summer Addenda,* and
(*7*) *1973 Winter Addenda.*

(C) ''*Division 1 Rules for Construction of Nuclear Power Plant Components:*''

(*1*) *1974 Edition,*
(*2*) *1974 Summer Addenda,*
(*3*) *1974 Winter Addenda,*
(*4*) *1975 Summer Addenda,*
(*5*) *1975 Winter Addenda,*
(*6*) *1976 Summer Addenda,* and
(*7*) *1976 Winter Addenda;*

(D) ''*Rules for Construction of Nuclear Power Plant Components—Division 1;*''

(*1*) *1977 Edition,*
(*2*) *1977 Summer Addenda,*
(*3*) *1977 Winter Addenda,*
(*4*) *1978 Summer Addenda,*
(*5*) *1978 Winter Addenda,*
(*6*) *1979 Summer Addenda,*
(*7*) *1979 Winter Addenda,*
(*8*) *1980 Edition,*
(*9*) *1980 Summer Addenda,*
(*10*) *1980 Winter Addenda,*
(*11*) *1981 Summer Addenda,*
(*12*) *1981 Winter Addenda,*
(*13*) *1982 Summer Addenda,*
(*14*) *1982 Winter Addenda,*
(*15*) *1983 Edition,*
(*16*) *1983 Summer Addenda,*
(*17*) *1983 Winter Addenda,*
(*18*) *1984 Summer Addenda,*
(*19*) *1984 Winter Addenda,*
(*20*) *1985 Summer Addenda,*
(*21*) *1985 Winter Addenda,*
(*22*) *1986 Edition,*
(*23*) *1986 Addenda,*
(*24*) *1987 Addenda,*
(*25*) *1988 Addenda,*
(*26*) *1989 Edition,*
(*27*) *1989 Addenda,*
(*28*) *1990 Addenda,*
(*29*) *1991 Addenda,*
(*30*) *1992 Edition,*
(*31*) *1992 Addenda,*
(*32*) *1993 Addenda,*
(*33*) *1994 Addenda,*
(*34*) *1995 Edition,*
(*35*)*1995 Addenda,*
(*36*)*1996 Addenda,* and
(*37*) *1997 Addenda.*

(E) ''*Rules for Construction of Nuclear Facility Components—Division 1:*''

(*1*) *1998 Edition,*
(*2*) *1998 Addenda,*
(*3*) *1999 Addenda,*
(*4*) *2000 Addenda,*
(*5*) *2001 Edition,*
(*6*) *2001 Addenda,*
(*7*) *2002 Addenda,*
(*8*) *2003 Addenda,*
(*9*) *2004 Edition,*
(*10*) *2005 Addenda,*
(*11*) *2006 Addenda,*
(*12*) *2007 Edition,* and
(*13*) *2008 Addenda.*

(ii) *ASME Boiler and Pressure Vessel Code, Section XI.* The editions and addenda for Section XI of the ASME Boiler and Pressure Vessel Code are listed below, but limited to those provisions identified in paragraph (b)(2) of this section.

(A) ''*Rules for Inservice Inspection of Nuclear Reactor Coolant Systems:*''

(1) 1970 Edition,
(2) 1971 Edition,
(*3*) *1971 Summer Addenda,*
(*4*) *1971 Winter Addenda,*
(*5*) *1972 Summer Addenda,*
(*6*) *1972 Winter Addenda,*
(*7*) *1973 Summer Addenda,* and
(*8*) *1973 Winter Addenda.*

(B) ''*Rules for Inservice Inspection of Nuclear Power Plant Components:*''

(*1*) *1974 Edition,*
(*2*) *1974 Summer Addenda,*
(*3*) *1974 Winter Addenda,* and
(*4*) *1975 Summer Addenda.*

(C) ''*Rules for Inservice Inspection of Nuclear Power Plant Components—Division 1:*''

(*1*) *1977 Edition,*
(*2*) *1977 Summer Addenda,*
(*3*) *1977 Winter Addenda,*
(*4*) *1978 Summer Addenda,*
(*5*) *1978 Winter Addenda,*
(*6*) *1979 Summer Addenda,*
(*7*) *1979 Winter Addenda,*
(*8*) *1980 Edition,*
(*9*) *1980 Winter Addenda,*
(*10*) *1981 Summer Addenda,*
(*11*) *1981 Winter Addenda,*
(*12*) *1982 Summer Addenda,*
(*13*) *1982 Winter Addenda,*
(*14*) *1983 Edition,*
(*15*) *1983 Summer Addenda,*
(*16*) *1983 Winter Addenda,*
(*17*) *1984 Summer Addenda,*
(*18*) *1984 Winter Addenda,*
(*19*) *1985 Summer Addenda,*
(*20*) *1985 Winter Addenda,*
(*21*) *1986 Edition,*
(*22*) *1986 Addenda,*
(*23*) *1987 Addenda,*
(*24*) *1988 Addenda,*
(*25*) *1989 Edition,*
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(*36*) *1997 Addenda,*
(*37*) *1998 Edition,*
(*38*) *1998 Addenda,*
(*39*) *1999 Addenda,*
(*40*) *2000 Addenda,*
(*41*) *2001 Edition,*
(*42*) *2001 Addenda,*
(*43*) *2002 Addenda,*
(*44*) *2003 Addenda,*

(*45*) *2004 Edition,*
(*46*) *2005 Addenda,*
(*47*) *2006 Addenda,*
(*48*) *2007 Edition,* and
(*49*) *2008 Addenda.*

(iii) *ASME Code Cases: Nuclear Components*

(A) *ASME Code Case N–722–1.* ASME Code Case N–722–1, ''Additional Examinations for PWR Pressure Retaining Welds in Class 1 Components Fabricated with Alloy 600/82/182 Materials, Section XI, Division 1'' (Approval Date: January 26, 2009), with the conditions in paragraph (g)(6)(ii)(E) of this section.

(B) *ASME Code Case N–729–1.* ASME Code Case N–729–1, ''Alternative Examination Requirements for PWR Reactor Vessel Upper Heads With Nozzles Having Pressure-Retaining Partial-Penetration Welds, Section XI, Division 1'' (Approval Date: March 28, 2006), with the conditions in paragraph (g)(6)(ii)(D) of this section.

(C) *ASME Code Case N–770–1.* ASME Code Case N–770–1, ''Additional Examinations for PWR Pressure Retaining Welds in Class 1 Components Fabricated with Alloy 600/82/182 Materials, Section XI, Division 1'' (Approval Date: December 25, 2009), with the conditions in paragraph (g)(6)(ii)(F) of this section.

(iv) *ASME Operation and Maintenance Code.* The editions and addenda for the ASME Code for Operation and Maintenance of Nuclear Power Plants are listed below, but limited to those provisions identified in paragraph (b)(3) of this section.

(A) ''*Code for Operation and Maintenance of Nuclear Power Plants:*''
(*1*) *1995 Edition,*
(*2*) *1996 Addenda,*
(*3*) *1997 Addenda,*
(*4*) *1998 Edition,*
(*5*) *1999 Addenda,*
(*6*) *2000 Addenda,*
(*7*) *2001 Edition,*
(*8*) *2002 Addenda,*
(*9*) *2003 Addenda,*
(*10*) *2004 Edition,*
(*11*) *2005 Addenda,* and
(*12*) *2006 Addenda.*

(B) [Reserved]

(2) *Institute of Electrical and Electronics Engineers (IEEE) Service Center,* 445 Hoes Lane, Piscataway, NJ 08855.

(i) *IEEE standard 279–1971.* (IEEE Std 279–1971), ''Criteria for Protection Systems for Nuclear Power Generating Stations'' (Approval Date: June 3, 1971), referenced in paragraphs (h)(2) of this section.

(ii) *IEEE Standard 603–1991.* (IEEE Std 603–1991), ''Standard Criteria for Safety Systems for Nuclear Power Generating Stations'' (Approval Date: June 27, 1971), referenced in paragraphs (h)(2) and (h)(3) of this section. All other standards that are referenced in IEEE Std 603–1991 are not approved incorporation by reference.

(iii) *IEEE standard 603–1991, correction sheet.* (IEEE Std 603–1991 correction sheet), ''Standard Criteria for Safety Systems for Nuclear Power Generating Stations, Correction Sheet, Issued January 30, 1995, '' referenced in paragraphs (h)(2) and (h)(3) of this section. (Copies of this correction sheet may be purchased from Thomson Reuters, 3916 Ranchero Dr., Ann Arbor, MI 48108, *http://www.techstreet.com.*)

(3) *U.S. Nuclear Regulatory Commission (NRC) Reproduction and Distribution Services Section,* Washington, DC 20555– 0001; fax: 301–415–2289; email: Distribution.Resource@nrc.gov.

(i) *NRC Regulatory Guide 1.84, Revision 36.* NRC Regulatory Guide 1.84, Revision 36, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' [INSERT DATE OF FINAL RULE PUBLICATION IN THE **Federal Register**], with the requirements in paragraph (b)(4) of this section.

(ii) *NRC Regulatory Guide 1.147, Revision 17.* NRC Regulatory Guide 1.147, Revision 17, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,'' [INSERT DATE OF FINAL RULE PUBLICATION IN THE **Federal Register**], which lists ASME Code Cases that the NRC has approved in accordance with the requirements in paragraph (b)(5) of this section.

(iii) *NRC Regulatory Guide 1.192, Revision 1.* NRC Regulatory Guide 1.192, Revision 1, ''Operation and Maintenance Code Case Acceptability, ASME OM Code,'' [INSERT DATE OF FINAL RULE PUBLICATION IN THE **Federal Register**], which lists ASME Code Cases that the NRC has approved in accordance with the requirements in paragraph (b)(6) of this section.

(b) *Use and conditions on the use of standards.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME Boiler and Pressure Vessel Code (BPV Code) and the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code) as specified in this paragraph. Each combined license for a utilization facility is subject to the following conditions.

(1) *Conditions on ASME BPV Code Section III.* Each manufacturing license, standard design approval, and design certification under Part 52 of this chapter is subject to the following conditions. As used in this section, references to Section III refer to Section III of the ASME Boiler and Pressure Vessel Code and include the 1963 Edition through 1973 Winter Addenda and the 1974 Edition (Division 1) through the 2008 Addenda (Division 1), subject to the following conditions:

(i) *Section III condition: Section III materials.* When applying the 1992 Edition of Section III, applicants or licensees must apply the 1992 Edition with the 1992 Addenda of Section II of the ASME Boiler and Pressure Vessel Code.

(ii) *Section III condition: Weld leg dimensions.* When applying the 1989 Addenda through the latest edition and addenda, applicants or licensees may not apply subparagraphs NB–3683.4(c)(1) and NB–3683.4(c)(2) or Footnote 11 from the 1989 Addenda through the 2003 Addenda, or Footnote 13 from the 2004 Edition through the 2008 Addenda to Figures NC–3673.2(b)–1 and ND–3673.2(b)–1 for welds with leg size less than 1.09 t_n.

(iii) *Section III condition: Seismic design of piping.* Applicants or licensees may use Subarticles NB–3200, NB–3600, NC–3600, and ND–3600 for seismic design of piping, up to and including the 1993 Addenda, subject to the condition specified in paragraph (b)(1)(ii) of this section. Applicants or licensees may not use these subarticles for seismic design of piping in the 1994 Addenda through the 2005 Addenda incorporated by reference in paragraph (a)(1) of this section, except that Subarticle NB–3200 in the 2004 Edition through the 2008 Addenda may be used by applicants and licensees, subject to the condition in paragraph (b)(1)(iii)(A) of this section. Applicants or licensees may use Subarticles NB–3600, NC–3600, and ND–3600 for the seismic design of piping in the 2006 Addenda through the 2008 Addenda, subject to the conditions of this paragraph corresponding to those subarticles.

(A) *Seismic design of piping: first provision.* When applying Note (1) of Figure NB–3222–1 for Level B service limits, the calculation of P_b stresses must include reversing dynamic loads (including inertia earthquake effects) if evaluation of these loads is required by NB–3223(b).

(B) *Seismic design of piping: second provision.* For Class 1 piping, the material and D_o/t requirements of NB–3656(b) must be met for all Service Limits when the Service Limits include reversing dynamic loads, and the alternative rules for reversing dynamic loads are used.

(iv) *Section III condition: Quality assurance.* When applying editions and addenda later than the 1989 Edition of Section III, the requirements of NQA–1, ''Quality Assurance Requirements for Nuclear Facilities,'' 1986 Edition through the 1994 Edition, are acceptable for use, provided that the edition and addenda of NQA–1 specified in NCA–4000 is used in conjunction with the administrative, quality, and technical provisions contained in the edition and addenda of Section III being used.

(v) *Section III condition: Independence of inspection.* Applicants or licensees may not apply NCA–4134.10(a) of Section III, 1995 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1) of this section.

(vi) *Section III condition: Subsection NH.* The provisions in Subsection NH, ''Class 1 Components in Elevated Temperature Service,'' 1995 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1) of this section, may only be used for the design and construction of Type 316 stainless steel pressurizer heater sleeves where service conditions do not cause the components to reach temperatures exceeding 900 °F.

(vii) *Section III condition: Capacity certification and demonstration of function of incompressible-fluid pressure-relief valves.* When applying the 2006 Addenda through the 2007 Edition up to and including the 2008 Addenda, applicants and licensees may use paragraph NB–7742, except that paragraph NB–7742(a)(2) may not be used. For a valve design of a single size to be certified over a range of set pressures, the demonstration of function tests under paragraph NB–7742 must be conducted as prescribed in NB–7732.2 on two valves covering the minimum set pressure for the design and the maximum set pressure that can be accommodated at the demonstration facility selected for the test.

(2) *Conditions on ASME BPV Code Section XI.* As used in this section, references to Section XI refer to Section XI, Division 1, of the ASME Boiler and Pressure Vessel Code, and include the 1970 Edition through the 1976 Winter Addenda and the 1977 Edition through the 2007 Edition with the 2008 Addenda, subject to the following conditions:

(i) [Reserved]

(ii) *Section XI condition: Pressure-retaining welds in ASME Code Class 1 piping (applies to Table IWB–2500 and IWB–2500–1 and Category B–J).* If the facility's application for a construction permit was docketed prior to July 1, 1978, the extent of examination for Code Class 1 pipe welds may be determined by the requirements of Table IWB–2500 and Table IWB–2600 Category B–J of Section XI of the ASME BPV Code in the 1974 Edition and Addenda through the Summer 1975 Addenda or other requirements the NRC may adopt.

(iii) [Reserved]

(iv) [Reserved]

(v) [Reserved]

(vi) *Section XI condition: Effective edition and addenda of Subsection IWE and Subsection IWL.* Applicants or licensees may use either the 1992 Edition with the 1992 Addenda or the 1995 Edition with the 1996 Addenda of Subsection IWE and Subsection IWL, as conditioned by the requirements in paragraphs (b)(2)(viii) and (b)(2)(ix) of this section, when implementing the initial 120-month inspection interval for the containment inservice inspection requirements of this section. Successive 120-month interval updates must be implemented in accordance with paragraph (g)(4)(ii) of this section.

(vii) *Section XI condition: Section XI references to OM Part 4, OM Part 6, and OM Part 10 (Table IWA–1600–1).* When using Table IWA–1600–1, ''Referenced Standards and Specifications,'' in the Section XI, Division 1, 1987 Addenda, 1988 Addenda, or 1989 Edition, the specified ''Revision Date or Indicator'' for ASME/ANSI OM part 4, ASME/ANSI part 6, and ASME/ANSI part 10 must be the OMa—1988 Addenda to the OM–1987 Edition. These requirements have been incorporated into the OM Code, which is incorporated by reference in paragraph (a)(1)(iv) of this section.

(viii) *Section XI condition: Concrete containment examinations.* Applicants or licensees applying Subsection IWL, 1992 Edition with the 1992 Addenda, must apply paragraphs (b)(2)(viii)(A) through (b)(2)(viii)(E) of this section. Applicants or licensees applying Subsection IWL, 1995 Edition with the 1996 Addenda, must apply paragraphs (b)(2)(viii)(A), (b)(2)(viii)(D)(*3*), and (b)(2)(viii)(E) of this section. Applicants or licensees applying Subsection IWL, 1998 Edition through the 2000 Addenda, must apply paragraphs (b)(2)(viii)(E) and (b)(2)(viii)(F) of this section. Applicants or licensees applying Subsection IWL, 2001 Edition through the 2004 Edition, up to and including the 2006 Addenda, must apply paragraphs (b)(2)(viii)(E) through (b)(2)(viii)(G) of this section. Applicants or licensees applying Subsection IWL, 2007 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, must apply paragraph (b)(2)(viii)(E) of this section.

(A) *Concrete containment examinations: first provision.* Grease caps that are accessible must be visually examined to detect grease leakage or grease cap deformations. Grease caps must be removed for this examination when there is evidence of grease cap deformation that indicates deterioration of anchorage hardware.

(B) *Concrete containment examinations: second provision.* When evaluation of consecutive surveillances of prestressing forces for the same tendon or tendons in a group indicates a trend of prestress loss such that the tendon force(s) would be less than the minimum design prestress requirements before the next inspection interval, an evaluation must be performed and reported in the Engineering Evaluation Report as prescribed in IWL–3300.

(C) *Concrete containment examinations: third provision.* When the elongation corresponding to a specific load (adjusted for effective wires or strands) during retensioning of tendons differs by more than 10 percent from that recorded during the last measurement, an evaluation must be performed to determine whether the difference is related to wire failures or slip of wires in anchorage. A difference of more than 10 percent must be identified in the ISI Summary Report required by IWA–6000.

(D) *Concrete containment examinations: fourth provision.* The applicant or licensee must report the following conditions, if they occur, in the ISI Summary Report required by IWA–6000:

(*1*) The sampled sheathing filler grease contains chemically combined water exceeding 10 percent by weight or the presence of free water;

(*2*) The absolute difference between the amount removed and the amount replaced exceeds 10 percent of the tendon net duct volume; and

(*3*) Grease leakage is detected during general visual examination of the containment surface.

(E) *Concrete containment examinations: fifth provision.* For Class CC applications, the applicant or licensee must evaluate the acceptability of inaccessible areas when conditions exist in accessible areas that could indicate the presence of or the result in degradation to such inaccessible areas. For each inaccessible area identified, the applicant or licensee must provide the following in the ISI Summary Report required by IWA–6000:

(*1*) A description of the type and estimated extent of degradation, and the conditions that led to the degradation;

(*2*) An evaluation of each area, and the result of the evaluation; and

(*3*) A description of necessary corrective actions.

(F) *Concrete containment examinations: sixth provision.* Personnel that examine containment concrete surfaces and tendon hardware, wires, or strands must meet the qualification provisions in IWA–2300. The ''owner-defined'' personnel qualification provisions in IWL–2310(d) are not approved for use.

(G) *Concrete containment examinations: seventh provision.* Corrosion protection material must be restored following concrete containment post-tensioning system repair and replacement activities in accordance with the quality assurance program requirements specified in IWA–1400.

(ix) *Section XI condition: Metal containment examinations.* Applicants or licensees applying Subsection IWE, 1992 Edition with the 1992 Addenda, or the 1995 Edition with the 1996 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A) through (b)(2)(ix)(E) of this section. Applicants or licensees applying Subsection IWE, 1998 Edition through the 2001 Edition with the 2003 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A), (b)(2)(ix)(B), and (b)(2)(ix)(F) through (b)(2)(ix)(I) of this section. Applicants or licensees applying Subsection IWE, 2004 Edition, up to and including the 2005 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A), (b)(2)(ix)(B), and (b)(2)(ix)(F) through (b)(2)(ix)(H) of this section. Applicants or licensees applying Subsection IWE, 2004 Edition with the 2006 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A)(*2*) and (b)(2)(ix)(B) of this section. Applicants or licensees applying Subsection IWE, 2007 Edition through the latest addenda incorporated by reference in paragraph (a)(1)(ii) of this section, must satisfy the requirements of paragraphs (b)(2)(ix)(A)(*2*), (b)(2)(ix)(B), and (b)(2)(ix)(J) of this section.

(A) *Metal containment examinations: first provision.* For Class MC applications, the following apply to inaccessible areas.

(*1*) The applicant or licensee must evaluate the acceptability of inaccessible areas when conditions exist in accessible areas that could indicate the presence of or could result in degradation to such inaccessible areas.

(*2*) For each inaccessible area identified for evaluation, the applicant or licensee must provide the following in the ISI Summary Report as required by IWA–6000:

(*i*) A description of the type and estimated extent of degradation, and the conditions that led to the degradation;

(*ii*) An evaluation of each area, and the result of the evaluation; and

(*iii*) A description of necessary corrective actions.

(B) *Metal containment examinations: second provision.* When performing remotely the visual examinations required by Subsection IWE, the maximum direct examination distance specified in Table IWA–2210–1 may be extended and the minimum illumination requirements specified in Table IWA–2210–1 may be decreased provided that the conditions or indications for which the visual examination is performed can be detected at the chosen distance and illumination.

(C) *Metal containment examinations: third provision.* The examinations specified in Examination Category E–B, Pressure Retaining Welds, and Examination Category E–F, Pressure Retaining Dissimilar Metal Welds, are optional.

(D) *Metal containment examinations: fourth provision.* This paragraph (b)(2)(ix)(D) may be used as an alternative to the requirements of IWE–2430.

(*1*) If the examinations reveal flaws or areas of degradation exceeding the acceptance standards of Table IWE–3410–1, an evaluation must be performed to determine whether additional component examinations are required. For each flaw or area of degradation identified that exceeds acceptance standards, the applicant or licensee must provide the following in the ISI Summary Report required by IWA–6000:

(*i*) A description of each flaw or area, including the extent of degradation, and the conditions that led to the degradation;

(*ii*) The acceptability of each flaw or area and the need for additional examinations to verify that similar degradation does not exist in similar components; and

(*iii*) A description of necessary corrective actions.

(*2*) The number and type of additional examinations to ensure detection of similar degradation in similar components.

(E) *Metal containment examinations: fifth provision.* A general visual examination as required by Subsection IWE must be performed once each period.

(F) *Metal containment examinations: sixth provision.* VT–1 and VT–3 examinations must be conducted in accordance with IWA–2200. Personnel conducting examinations in accordance with the VT–1 or VT–3 examination method must be qualified in accordance with IWA–2300. The ''owner-defined'' personnel qualification provisions in IWE–2330(a) for personnel that conduct VT–1 and VT–3 examinations are not approved for use.

(G) *Metal containment examinations: seventh provision.* The VT–3 examination method must be used to conduct the examinations in Items E1.12 and E1.20 of Table IWE–2500–1, and the VT–1 examination method must be used to conduct the examination in Item E4.11 of Table IWE–2500–1. An examination of the pressure-retaining bolted connections in Item E1.11 of Table IWE–2500–1 using the VT–3 examination method must be conducted once each interval. The ''owner-defined'' visual examination provisions in IWE–2310(a) are not approved for use for VT–1 and VT–3 examinations.

(H) *Metal containment examinations: eighth provision.* Containment bolted connections that are disassembled during the scheduled performance of the examinations in Item E1.11 of Table IWE–2500–1 must be examined using the VT–3 examination method. Flaws or degradation identified during the performance of a VT–3 examination must be examined in accordance with the VT–1 examination method. The criteria in the material specification or IWB–3517.1 must be used to evaluate containment bolting flaws or degradation. As an alternative to performing VT–3 examinations of containment bolted connections that are disassembled during the scheduled performance of Item E1.11, VT–3 examinations of containment bolted connections may be conducted whenever containment bolted connections are disassembled for any reason.

(I) *Metal containment examinations: ninth provision.* The ultrasonic examination acceptance standard specified in IWE–3511.3 for Class MC pressure-retaining components must also be applied to metallic liners of Class CC pressure-retaining components.

(J) *Metal containment examinations: tenth provision.* In general, a repair/replacement activity such as replacing a large containment penetration, cutting a large construction opening in the containment pressure boundary to replace steam generators, reactor vessel heads, pressurizers, or other major equipment; or other similar modification is considered a major containment modification. When applying IWE–5000 to Class MC pressure-retaining components, any major containment modification or repair/replacement must be followed by a Type A test to provide assurance of

both containment structural integrity and leaktight integrity prior to returning to service, in accordance with 10 CFR Part 50, Appendix J, Option A or Option B on which the applicant's or licensee's Containment Leak-Rate Testing Program is based. When applying IWE–5000, if a Type A, B, or C Test is performed, the test pressure and acceptance standard for the test must be in accordance with 10 CFR Part 50, Appendix J.

(x) *Section XI condition: Quality assurance.* When applying Section XI editions and addenda later than the 1989 Edition, the requirements of NQA–1, ''Quality Assurance Requirements for Nuclear Facilities,'' 1979 Addenda through the 1989 Edition, are acceptable as permitted by IWA–1400 of Section XI, if the licensee uses its 10 CFR Part 50, Appendix B, quality assurance program, in conjunction with Section XI requirements. Commitments contained in the licensee's quality assurance program description that are more stringent than those contained in NQA–1 must govern Section XI activities. Further, where NQA–1 and Section XI do not address the commitments contained in the licensee's Appendix B quality assurance program description, the commitments must be applied to Section XI activities.

(xi) [Reserved]

(xii) *Section XI condition: Underwater welding.* The provisions in IWA–4660, ''Underwater Welding,'' of Section XI, 1997 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, are not approved for use on irradiated material.

(xiii) [Reserved]

(xiv) *Section XI condition: Appendix VIII personnel qualification.* All personnel qualified for performing ultrasonic examinations in accordance with Appendix VIII must receive 8 hours of annual hands-on training on specimens that contain cracks. Licensees applying the 1999 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section may use the annual practice requirements in VII–4240 of Appendix VII of Section XI in place of the 8 hours of annual hands-on training provided that the supplemental practice is performed on material or welds that contain cracks, or by analyzing prerecorded data from material or welds that contain cracks. In either case, training must be completed no earlier than 6 months prior to performing ultrasonic examinations at a licensee's facility.

(xv) *Section XI condition: Appendix VIII specimen set and qualification requirements.* Licensees using Appendix VIII in the 1995 Edition through the 2001 Edition of the ASME Boiler and Pressure Vessel Code may elect to comply with all of the provisions in paragraphs (b)(2)(xv)(A) through (b)(2)(xv)(M) of this section, except for paragraph (b)(2)(xv)(F) of this section, which may be used at the licensee's option. Licensees using editions and addenda after 2001 Edition through the 2006 Addenda must use the 2001 Edition of Appendix VIII and may elect to comply with all of the provisions in paragraphs (b)(2)(xv)(A) through (b)(2)(xv)(M) of this section, except for paragraph (b)(2)(xv)(F) of this section, which may be used at the licensee's option.

(A) *Specimen set and qualification: first provision.* When applying Supplements 2, 3, and 10 to Appendix VIII, the following examination coverage criteria requirements must be used:

(*1*) Piping must be examined in two axial directions, and when examination in the circumferential direction is required, the circumferential examination must be performed in two directions, provided access is available. Dissimilar metal welds must be examined axially and circumferentially.

(*2*) Where examination from both sides is not possible, full coverage credit may be claimed from a single side for ferritic welds. Where examination from both sides is not possible on austenitic welds or dissimilar metal welds, full coverage credit from a single side may be claimed only after completing a successful single-sided Appendix VIII demonstration using flaws on the opposite side of the weld. Dissimilar metal weld qualifications must be demonstrated from the austenitic side of the weld, and the qualification may be expanded for austenitic welds with no austenitic sides using a separate add-on performance demonstration. Dissimilar metal welds may be examined from either side of the weld.

(B) *Specimen set and qualification: second provision.* The following conditions must be used in addition to the requirements of Supplement 4 to Appendix VIII:

(*1*) Paragraph 3.1, Detection acceptance criteria—Personnel are qualified for detection if the results of the performance demonstration satisfy the detection requirements of ASME Section XI, Appendix VIII, Table VIII–S4–1, and no flaw greater than 0.25 inch through-wall dimension is missed.

(*2*) Paragraph 1.1(c), Detection test matrix—Flaws smaller than the 50 percent of allowable flaw size, as defined in IWB–3500, need not be included as detection flaws. For procedures applied from the inside surface, use the minimum thickness specified in the scope of the procedure to calculate a/t. For procedures applied from the outside surface, the actual thickness of the test specimen is to be used to calculate a/t.

(C) *Specimen set and qualification: third provision.* When applying Supplement 4 to Appendix VIII, the following conditions must be used:

(*1*) A depth sizing requirement of 0.15 inch RMS must be used in lieu of the requirements in Subparagraphs 3.2(a) and 3.2(c), and a length sizing requirement of 0.75 inch RMS must be used in lieu of the requirement in Subparagraph 3.2(b).

(*2*) In lieu of the location acceptance criteria requirements of Subparagraph 2.1(b), a flaw will be considered detected when reported within 1.0 inch or 10 percent of the metal path to the flaw, whichever is greater, of its true location in the X and Y directions.

(*3*) In lieu of the flaw type requirements of Subparagraph 1.1(e)(1), a minimum of 70 percent of the flaws in the detection and sizing tests must be cracks. Notches, if used, must be limited by the following:

(*i*) Notches must be limited to the case where examinations are performed from the clad surface.

(*ii*) Notches must be semielliptical with a tip width of less than or equal to 0.010 inches.

(*iii*) Notches must be perpendicular to the surface within ±2 degrees.

(*4*) In lieu of the detection test matrix requirements in paragraphs 1.1(e)(2) and 1.1(e)(3), personnel demonstration test sets must contain a representative distribution of flaw orientations, sizes, and locations.

(D) *Specimen set and qualification: fourth provision.* The following conditions must be used in addition to the requirements of Supplement 6 to Appendix VIII:

(*1*) Paragraph 3.1, Detection Acceptance Criteria—Personnel are qualified for detection if:

(*i*) No surface connected flaw greater than 0.25 inch through-wall has been missed.

(*ii*) No embedded flaw greater than 0.50 inch through-wall has been missed.

(*2*) Paragraph 3.1, Detection Acceptance Criteria—For procedure qualification, all flaws within the scope of the procedure are detected.

(*3*) Paragraph 1.1(b) for detection and sizing test flaws and locations—Flaws smaller than the 50 percent of allowable flaw size, as defined in IWB–3500, need not be included as detection flaws. Flaws that are less than the allowable flaw size, as defined in IWB–3500, may be used as detection and sizing flaws.

(*4*) Notches are not permitted.

(E) *Specimen set and qualification: fifth provision.* When applying Supplement 6 to Appendix VIII, the following conditions must be used:

(*1*) A depth sizing requirement of 0.25 inch RMS must be used in lieu of the requirements of subparagraphs 3.2(a), 3.2(c)(2), and 3.2(c)(3).

(*2*) In lieu of the location acceptance criteria requirements in Subparagraph 2.1(b), a flaw will be considered detected when reported within 1.0 inch or 10 percent of the metal path to the flaw, whichever is greater, of its true location in the X and Y directions.

(*3*) In lieu of the length sizing criteria requirements of Subparagraph 3.2(b), a length sizing acceptance criteria of 0.75 inch RMS must be used.

(*4*) In lieu of the detection specimen requirements in Subparagraph 1.1(e)(1), a minimum of 55 percent of the flaws must be cracks. The remaining flaws may be cracks or fabrication type flaws, such as slag and lack of fusion. The use of notches is not allowed.

(*5*) In lieu of paragraphs 1.1(e)(2) and 1.1(e)(3) detection test matrix, personnel demonstration test sets must contain a representative distribution of flaw orientations, sizes, and locations.

(F) *Specimen set and qualification: sixth provision.* The following conditions may be used for personnel qualification for combined Supplement 4 to Appendix VIII and Supplement 6 to Appendix VIII qualification. Licensees choosing to apply this combined qualification must apply all of the provisions of Supplements 4 and 6 including the following conditions:

(*1*) For detection and sizing, the total number of flaws must be at least 10. A minimum of 5 flaws must be from Supplement 4, and a minimum of 50 percent of the flaws must be from Supplement 6. At least 50 percent of the flaws in any sizing must be cracks. Notches are not acceptable for Supplement 6.

(*2*) Examination personnel are qualified for detection and length sizing when the results of any combined performance demonstration satisfy the acceptance criteria of Supplement 4 to Appendix VIII.

(*3*) Examination personnel are qualified for depth sizing when Supplement 4 to Appendix VIII and Supplement 6 to Appendix VIII flaws are sized within the respective acceptance criteria of those supplements.

(G) *Specimen set and qualification: seventh provision.* When applying Supplement 4 to Appendix VIII, Supplement 6 to Appendix VIII, or combined Supplement 4 and Supplement 6 qualification, the following additional conditions must be used, and examination coverage must include:

(*1*) The clad-to-base-metal-interface, including a minimum of 15 percent T (measured from the clad-to-base-metal-interface), must be examined from four orthogonal directions using procedures and personnel qualified in accordance with Supplement 4 to Appendix VIII.

(*2*) If the clad-to-base-metal-interface procedure demonstrates detectability of flaws with a tilt angle relative to the weld centerline of at least 45 degrees, the remainder of the examination volume is considered fully examined if coverage is obtained in one parallel and one perpendicular direction. This must be accomplished using a procedure and personnel qualified for single-side examination in accordance with Supplement 6. Subsequent examinations of this volume may be performed using examination techniques qualified for a tilt angle of at least 10 degrees.

(*3*) The examination volume not addressed by paragraph (b)(2)(xv)(G)(*1*) of this section is considered fully examined if coverage is obtained in one parallel and one perpendicular direction, using a procedure and personnel qualified for single sided examination when the conditions in paragraph (b)(2)(xv)(G)(*2*) are met.

(H) *Specimen set and qualification: eighth provision.* When applying Supplement 5 to Appendix VIII, at least 50 percent of the flaws in the demonstration test set must be cracks and the maximum misorientation must be demonstrated with cracks. Flaws in nozzles with bore diameters equal to or less than 4 inches may be notches.

(I) *Specimen set and qualification: ninth provision.* When applying Supplement 5, Paragraph (a), to Appendix VIII, the number of false calls allowed must be D/10, with a maximum of 3, where D is the diameter of the nozzle.

(J) [Reserved]

(K) *Specimen set and qualification: eleventh provision.* When performing nozzle-to-vessel weld examinations, the following conditions must be used when the requirements contained in Supplement 7 to Appendix VIII are applied for nozzle-to-vessel welds in conjunction with Supplement 4 to Appendix VIII, Supplement 6 to Appendix VIII, or combined Supplement 4 and Supplement 6 qualification.

(*1*) For examination of nozzle-to-vessel welds conducted from the bore, the following conditions are required to qualify the procedures, equipment, and personnel:

(*i*) For detection, a minimum of four flaws in one or more full-scale nozzle mock-ups must be added to the test set. The specimens must comply with Supplement 6, paragraph 1.1, to Appendix VIII, except for flaw locations specified in Table VIII S6–1. Flaws may be notches, fabrication flaws, or cracks. Seventy-five (75) percent of the flaws must be cracks or fabrication flaws. Flaw locations and orientations must be selected from the choices shown in paragraph (b)(2)(xv)(K)(*4*) of this section, Table VIII–S7–1—Modified, with the exception that flaws in the outer eighty-five (85) percent of the weld need not be perpendicular to the weld. There may be no more than two flaws from each category, and at least one subsurface flaw must be included.

(*ii*) For length sizing, a minimum of four flaws as in paragraph (b)(2)(xv)(K)(*1*)(*i*) of this section must be included in the test set. The length sizing results must be added to the results of combined Supplement 4 to Appendix VIII and Supplement 6 to Appendix VIII. The combined results must meet the acceptance standards contained in paragraph (b)(2)(xv)(E)(*3*) of this section.

(*iii*) For depth sizing, a minimum of four flaws as in paragraph (b)(2)(xv)(K)(*1*)(*i*) of this section must be included in the test set. Their depths must be distributed over the ranges of Supplement 4, Paragraph 1.1, to Appendix VIII, for the inner 15 percent of the wall thickness and Supplement 6, Paragraph 1.1, to Appendix VIII, for the remainder of the wall thickness. The depth sizing results must be combined with the sizing results from Supplement 4 to Appendix VIII for the inner 15 percent and to Supplement 6 to Appendix VIII for the remainder of the wall thickness. The combined results must meet the depth sizing acceptance criteria contained in paragraphs (b)(2)(xv)(C)(*1*), (b)(2)(xv)(E)(*1*), and (b)(2)(xv)(F)(*3*) of this section.

(*2*) For examination of reactor pressure vessel nozzle-to-vessel welds conducted from the inside of the vessel, the following conditions are required:

(*i*) The clad-to-base-metal-interface and the adjacent examination volume to a minimum depth of 15 percent T (measured from the clad-to-base-metal-interface) must be examined from four orthogonal directions using a procedure and personnel qualified in accordance with Supplement 4 to Appendix VIII as conditioned by paragraphs (b)(2)(xv)(B) and (b)(2)(xv)(C) of this section.

(*ii*) When the examination volume defined in paragraph (b)(2)(xv)(K)(*2*)(*i*)

of this section cannot be effectively examined in all four directions, the examination must be augmented by examination from the nozzle bore using a procedure and personnel qualified in accordance with paragraph (b)(2)(xv)(K)(*1*) of this section.

(*iii*) The remainder of the examination volume not covered by paragraph (b)(2)(xv)(K)(*2*)(*ii*) of this section or a combination of paragraphs (b)(2)(xv)(K)(*2*)(*i*) and (b)(2)(xv)(K)(*2*)(*ii*) of this section, must be examined from the nozzle bore using a procedure and personnel qualified in accordance with paragraph (b)(2)(xv)(K)(*1*) of this section, or from the vessel shell using a procedure and personnel qualified for single sided examination in accordance with Supplement 6 to Appendix VIII, as conditioned by paragraphs (b)(2)(xv)(D) through (b)(2)(xv)(G) of this section.

(*3*) For examination of reactor pressure vessel nozzle-to-shell welds conducted from the outside of the vessel, the following conditions are required:

(*i*) The clad-to-base-metal-interface and the adjacent metal to a depth of 15 percent T (measured from the clad-to-base-metal-interface) must be examined from one radial and two opposing circumferential directions using a procedure and personnel qualified in accordance with Supplement 4 to Appendix VIII, as conditioned by paragraphs (b)(2)(xv)(B) and (b)(2)(xv)(C) of this section, for examinations performed in the radial direction, and Supplement 5 to Appendix VIII, as conditioned by paragraph (b)(2)(xv)(J) of this section, for examinations performed in the circumferential direction.

(*ii*) The examination volume not addressed by paragraph (b)(2)(xv)(K)(*3*)(*i*) of this section must be examined in a minimum of one radial direction using a procedure and personnel qualified for single sided examination in accordance with Supplement 6 to Appendix VIII, as conditioned by paragraphs (b)(2)(xv)(D) through (b)(2)(xv)(G) of this section.

(*4*) Table VIII–S7–1, ''Flaw Locations and Orientations,'' Supplement 7 to Appendix VIII, is conditioned as follows:

TABLE VIII–S7–1—MODIFIED

Flaw locations and orientations		
	Parallel to weld	Perpendicular to weld
Inner 15 percent	X	X
Outside Diameter Surface	X	.....

TABLE VIII–S7–1—MODIFIED—Continued

Flaw locations and orientations		
	Parallel to weld	Perpendicular to weld
Subsurface	X	.....

(L) *Specimen set and qualification: twelfth provision.* As a condition to the requirements of Supplement 8, Subparagraph 1.1(c), to Appendix VIII, notches may be located within one diameter of each end of the bolt or stud.

(M) *Specimen set and qualification: thirteenth provision.* When implementing Supplement 12 to Appendix VIII, only the provisions related to the coordinated implementation of Supplement 3 to Supplement 2 performance demonstrations are to be applied.

(xvi) *Section XI condition: Appendix VIII single side ferritic vessel and piping and stainless steel piping examinations.* When applying editions and addenda prior to the 2007 Edition of Section XI, the following conditions apply.

(A) *Ferritic and stainless steel piping examinations: first provision.* Examinations performed from one side of a ferritic vessel weld must be conducted with equipment, procedures, and personnel that have demonstrated proficiency with single side examinations. To demonstrate equivalency to two sided examinations, the demonstration must be performed to the requirements of Appendix VIII, as conditioned by this paragraph and paragraphs (b)(2)(xv)(B) through (b)(2)(xv)(G) of this section, on specimens containing flaws with non-optimum sound energy reflecting characteristics or flaws similar to those in the vessel being examined.

(B) *Ferritic and stainless steel piping examinations: second provision.* Examinations performed from one side of a ferritic or stainless steel pipe weld must be conducted with equipment, procedures, and personnel that have demonstrated proficiency with single side examinations. To demonstrate equivalency to two sided examinations, the demonstration must be performed to the requirements of Appendix VIII, as conditioned by this paragraph and paragraph (b)(2)(xv)(A) of this section.

(xvii) *Section XI condition: Reconciliation of quality requirements.* When purchasing replacement items, in addition to the reconciliation provisions of IWA–4200, 1995 Addenda through 1998 Edition, the replacement items must be purchased, to the extent necessary, in accordance with the licensee's quality assurance program description required by 10 CFR 50.34(b)(6)(ii).

(xviii) *Section XI condition: NDE personnel certification.*

(A) *NDE personnel certification: first provision.* Level I and II nondestructive examination personnel must be recertified on a 3-year interval in lieu of the 5-year interval specified in the 1997 Addenda and 1998 Edition of IWA–2314, and IWA–2314(a) and IWA–2314(b) of the 1999 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section.

(B) *NDE personnel certification: second provision.* When applying editions and addenda prior to the 2007 Edition of Section XI, paragraph IWA–2316 may only be used to qualify personnel that observe leakage during system leakage and hydrostatic tests conducted in accordance with IWA 5211(a) and (b).

(C) *NDE personnel certification: third provision.* When applying editions and addenda prior to the 2005 Addenda of Section XI, licensee's qualifying visual examination personnel for VT–3 visual examination under paragraph IWA–2317 of Section XI must demonstrate the proficiency of the training by administering an initial qualification examination and administering subsequent examinations on a 3-year interval.

(xix) *Section XI condition: Substitution of alternative methods.* The provisions for substituting alternative examination methods, a combination of methods, or newly developed techniques in the 1997 Addenda of IWA–2240 must be applied when using the 1998 Edition through the 2004 Edition of Section XI of the ASME BPV Code. The provisions in IWA–4520(c), 1997 Addenda through the 2004 Edition, allowing the substitution of alternative methods, a combination of methods, or newly developed techniques for the methods specified in the Construction Code, are not approved for use. The provisions in IWA–4520(b)(2) and IWA–4521 of the 2008 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, allowing the substitution of ultrasonic examination for radiographic examination specified in the Construction Code, are not approved for use.

(xx) *Section XI condition: System leakage tests.*

(A) *System leakage tests: first provision.* When performing system leakage tests in accordance with IWA–5213(a), 1997 through 2002 Addenda,

the licensee must maintain a 10-minute hold time after test pressure has been reached for Class 2 and Class 3 components that are not in use during normal operating conditions. No hold time is required for the remaining Class 2 and Class 3 components provided that the system has been in operation for at least 4 hours for insulated components or 10 minutes for uninsulated components.

(B) *System leakage tests: second provision.* The NDE provision in IWA–4540(a)(2) of the 2002 Addenda of Section XI must be applied when performing system leakage tests after repair and replacement activities performed by welding or brazing on a pressure retaining boundary using the 2003 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section.

(xxi) *Section XI condition: Table IWB–2500–1 examination requirements.*

(A) *Table IWB–2500–1 examination requirements: first provision.* The provisions of Table IWB–2500–1, Examination Category B–D, Full Penetration Welded Nozzles in Vessels, Items B3.40 and B3.60 (Inspection Program A) and Items B3.120 and B3.140 (Inspection Program B) of the 1998 Edition must be applied when using the 1999 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section. A visual examination with magnification that has a resolution sensitivity to detect a 1-mil width wire or crack, utilizing the allowable flaw length criteria in Table IWB–3512–1, 1997 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, with a limiting assumption on the flaw aspect ratio (i.e., a/l = 0.5), may be performed instead of an ultrasonic examination.

(B) [Reserved]

(xxii) *Section XI condition: Surface examination.* The use of the provision in IWA–2220, ''Surface Examination,'' of Section XI, 2001 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, that allows use of an ultrasonic examination method is prohibited.

(xxiii) *Section XI condition: Evaluation of thermally cut surfaces.* The use of the provisions for eliminating mechanical processing of thermally cut surfaces in IWA–4461.4.2 of Section XI, 2001 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, is prohibited.

(xxiv) *Section XI condition: Incorporation of the performance demonstration initiative and addition of ultrasonic examination criteria.* The use of Appendix VIII and the supplements to Appendix VIII and Article I–3000 of Section XI of the ASME BPV Code, 2002 Addenda through the 2006 Addenda, is prohibited.

(xxv) *Section XI condition: Mitigation of defects by modification.* The use of the provisions in IWA–4340, ''Mitigation of Defects by Modification,'' Section XI, 2001 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section are prohibited.

(xxvi) *Section XI condition: Pressure testing Class 1, 2 and 3 mechanical joints.* The repair and replacement activity provisions in IWA–4540(c) of the 1998 Edition of Section XI for pressure testing Class 1, 2, and 3 mechanical joints must be applied when using the 2001 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section.

(xxvii) *Section XI condition: Removal of insulation.* When performing visual examination in accordance with IWA–5242 of Section XI of the ASME BPV Code, 2003 Addenda through the 2006 Addenda, or IWA–5241 of the 2007 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, insulation must be removed from 17–4 PH or 410 stainless steel studs or bolts aged at a temperature below 1100 °F or having a Rockwell Method C hardness value above 30, and from A–286 stainless steel studs or bolts preloaded to 100,000 pounds per square inch or higher.

(xxviii) *Section XI condition: Analysis of flaws.* Licensees using ASME BPV Code, Section XI, Appendix A, must use the following conditions when implementing Equation (2) in A–4300(b)(1):

For $R < 0$, ΔK_I depends on the crack depth (a), and the flow stress (σ_f). The flow stress is defined by $\sigma_f = 1/2(\sigma_{ys} + \sigma_{ult})$, where σ_{ys} is the yield strength and σ_{ult} is the ultimate tensile strength in units ksi (MPa) and (a) is in units in. (mm). For $-2 \leq R \leq 0$ and $K_{max} - K_{min} \leq 0.8 \times 1.12\ \sigma_f\sqrt{(\pi a)}$, $S = 1$ and $\Delta K_I = K_{max}$. For $R < -2$ and $K_{max} - K_{min} \leq 0.8 \times 1.12\ \sigma_f\sqrt{(\pi a)}$, $S = 1$ and $\Delta K_I = (1 - R) K_{max}/3$. For $R < 0$ and $K_{max} - K_{min} > 0.8 \times 1.12\ \sigma_f\sqrt{(\pi a)}$, $S = 1$ and $\Delta K_I = K_{max} - K_{min}$.

(xxix) *Section XI condition: Nonmandatory Appendix R.* Nonmandatory Appendix R, ''Risk-Informed Inspection Requirements for Piping,'' of Section XI, 2005 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, may not be implemented without prior NRC authorization of the proposed alternative in accordance with paragraph (z) of this section.

(3) *Conditions on ASME OM Code.* As used in this section, references to the OM Code refer to the ASME Code for Operation and Maintenance of Nuclear Power Plants, Subsections ISTA, ISTB, ISTC, ISTD, Mandatory Appendices I and II, and Nonmandatory Appendices A through H and J, including the 1995 Edition through the 2006 Addenda, subject to the following conditions:

(i) *OM condition: Quality assurance.* When applying editions and addenda of the OM Code, the requirements of NQA–1, ''Quality Assurance Requirements for Nuclear Facilities,'' 1979 Addenda, are acceptable as permitted by ISTA 1.4 of the 1995 Edition through 1997 Addenda or ISTA–1500 of the 1998 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(iv) of this section, provided the licensee uses its 10 CFR Part 50, Appendix B, quality assurance program in conjunction with the OM Code requirements. Commitments contained in the licensee's quality assurance program description that are more stringent than those contained in NQA–1 govern OM Code activities. If NQA–1 and the OM Code do not address the commitments contained in the licensee's Appendix B quality assurance program description, the commitments must be applied to OM Code activities.

(ii) *OM condition: Motor-Operated Valve (MOV) testing.* Licensees must comply with the provisions for MOV testing in OM Code ISTC 4.2, 1995 Edition with the 1996 and 1997 Addenda, or ISTC–3500, 1998 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(iv) of this section, and must establish a program to ensure that motor-operated valves continue to be capable of performing their design basis safety functions.

(iii) [Reserved]

(iv) *OM condition: Check valves (Appendix II).* Licensees applying Appendix II, ''Check Valve Condition Monitoring Program,'' of the OM Code, 1995 Edition with the 1996 and 1997 Addenda, must satisfy the requirements of paragraphs (b)(3)(iv)(A), (b)(3)(iv)(B), and (b)(3)(iv)(C) of this section. Licensees applying Appendix II, 1998 Edition through the 2002 Addenda, must satisfy the requirements of paragraphs (b)(3)(iv)(A), (b)(3)(iv)(B), and (b)(3)(iv)(D) of this section.

(A) *Check valves: first provision.* Valve opening and closing functions

must be demonstrated when flow testing or examination methods (nonintrusive, or disassembly and inspection) are used;

(B) *Check valves: second provision.* The initial interval for tests and associated examinations may not exceed two fuel cycles or 3 years, whichever is longer; any extension of this interval may not exceed one fuel cycle per extension with the maximum interval not to exceed 10 years. Trending and evaluation of existing data must be used to reduce or extend the time interval between tests.

(C) *Check valves: third provision.* If the Appendix II condition monitoring program is discontinued, then the requirements of ISTC 4.5.1 through 4.5.4 must be implemented.

(D) *Check valves: fourth provision.* The applicable provisions of subsection ISTC must be implemented if the Appendix II condition monitoring program is discontinued.

(v) *OM condition: Snubbers ISTD.* Article IWF–5000, ''Inservice Inspection Requirements for Snubbers,'' of the ASME BPV Code, Section XI, must be used when performing inservice inspection examinations and tests of snubbers at nuclear power plants, except as conditioned in paragraphs (b)(3)(v)(A) and (b)(3)(v)(B) of this section.

(A) *Snubbers: first provision.* Licensees may use Subsection ISTD, ''Preservice and Inservice Examination and Testing of Dynamic Restraints (Snubbers) in Light-Water Reactor Power Plants,'' ASME OM Code, 1995 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(iv) of this section, in place of the requirements for snubbers in the editions and addenda up to the 2005 Addenda of the ASME BPV Code, Section XI, IWF–5200(a) and (b) and IWF–5300(a) and (b), by making appropriate changes to their technical specifications or licensee-controlled documents. Preservice and inservice examinations must be performed using the VT–3 visual examination method described in IWA–2213.

(B) *Snubbers: second provision.* Licensees must comply with the provisions for examining and testing snubbers in Subsection ISTD of the ASME OM Code and make appropriate changes to their technical specifications or licensee-controlled documents when using the 2006 Addenda and later editions and addenda of Section XI of the ASME BPV Code.

(vi) *OM condition: Exercise interval for manual valves.* Manual valves must be exercised on a 2-year interval rather than the 5-year interval specified in paragraph ISTC–3540 of the 1999 through the 2005 Addenda of the ASME OM Code, provided that adverse conditions do not require more frequent testing.

(4) *Conditions on Design, Fabrication, and Materials Code Cases.* Each manufacturing license, standard design approval, and design certification application under Part 52 of this chapter is subject to the following conditions. Licensees may apply the ASME BPV Code Cases listed in NRC Regulatory Guide 1.84, Revision 36, without prior NRC approval, subject to the following conditions:

(i) *Design, Fabrication, and Materials Code Case condition: Applying Code Cases.* When an applicant or licensee initially applies a listed Code Case, the applicant or licensee must apply the most recent version of that Code Case incorporated by reference in paragraph (a) of this section.

(ii) *Design, Fabrication, and Materials Code Case condition: Applying different revisions of Code Cases.* If an applicant or licensee has previously applied a Code Case and a later version of the Code Case is incorporated by reference in paragraph (a) of this section, the applicant or licensee may continue to apply the previous version of the Code Case as authorized or may apply the later version of the Code Case, including any NRC-specified conditions placed on its use, until it updates its Code of Record for the component being constructed.

(iii) *Design, Fabrication, and Materials Code Case condition: Applying annulled Code Cases.* Application of an annulled Code Case is prohibited unless an applicant or licensee applied the listed Code Case prior to it being listed as annulled in Regulatory Guide 1.84. If an applicant or licensee has applied a listed Code Case that is later listed as annulled in Regulatory Guide 1.84, the applicant or licensee may continue to apply the Code Case until it updates its Code of Record for the component being constructed.

(5) *Conditions on inservice inspection Code Cases.* Licensees may apply the ASME BPV Code Cases listed in Regulatory Guide 1.147, Revision 17, without prior NRC approval, subject to the following:

(i) *ISI Code Case condition: Applying Code Cases.* When a licensee initially applies a listed Code Case, the licensee must apply the most recent version of that Code Case incorporated by reference in paragraph (a) of this section.

(ii) *ISI Code Case condition: Applying different revisions of Code Cases.* If a licensee has previously applied a Code Case and a later version of the Code Case is incorporated by reference in paragraph (a) of this section, the licensee may continue to apply, to the end of the current 120-month interval, the previous version of the Code Case, as authorized, or may apply the later version of the Code Case, including any NRC-specified conditions placed on its use. Licensees who choose to continue use of the Code Case during subsequent 120-month ISI program intervals will be required to implement the latest version incorporated by reference into 10 CFR 50.55a as listed in Tables 1 and 2 of Regulatory Guide 1.147, Revision 17.

(iii) *ISI Code Case condition: Applying annulled Code Cases.* Application of an annulled Code Case is prohibited unless a licensee previously applied the listed Code Case prior to it being listed as annulled in Regulatory Guide 1.147. If a licensee has applied a listed Code Case that is later listed as annulled in Regulatory Guide 1.147, the licensee may continue to apply the Code Case to the end of the current 120-month interval.

(6) *Conditions on Operation and Maintenance of Nuclear Power Plants Code Cases.* Licensees may apply the ASME Operation and Maintenance Code Cases listed in Regulatory Guide 1.192, Revision 1, without prior NRC approval, subject to the following:

(i) *OM Code Case condition: Applying Code Cases.* When a licensee initially applies a listed Code Case, the licensee must apply the most recent version of that Code Case incorporated by reference in paragraph (a) of this section.

(ii) *OM Code Case condition: Applying different revisions of Code Cases.* If a licensee has previously applied a Code Case and a later version of the Code Case is incorporated by reference in paragraph (a) of this section, the licensee may continue to apply, to the end of the current 120-month interval, the previous version of the Code Case, as authorized, or may apply the later version of the Code Case, including any NRC-specified conditions placed on its use. Licensees who choose to continue use of the Code Case during subsequent 120-month ISI program intervals will be required to implement the latest version incorporated by reference into 10 CFR 50.55a as listed in Tables 1 and 2 of Regulatory Guide 1.192, Revision 1.

(iii) *OM Code Case condition: Applying annulled Code Cases.* Application of an annulled Code Case is prohibited unless a licensee previously applied the listed Code Case prior to it being listed as annulled in Regulatory Guide 1.192. If a licensee has applied a listed Code Case that is later listed as

annulled in Regulatory Guide 1.192, the licensee may continue to apply the Code Case to the end of the current 120-month interval.

(c) *Reactor coolant pressure boundary.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code as specified in this paragraph. Each manufacturing license, standard design approval, and design certification application under Part 52 of this chapter and each combined license for a utilization facility is subject to the following conditions:

(1) *Standards requirement for reactor coolant pressure boundary components.* Components that are part of the reactor coolant pressure boundary must meet the requirements for Class 1 components in Section III[4,5] of the ASME BPV Code, except as provided in paragraphs (c)(2), (c)(3), and (c)(4) of this section.

(2) *Exceptions to reactor coolant pressure boundary standards requirement.* Components that are connected to the reactor coolant system and are part of the reactor coolant pressure boundary as defined in § 50.2 need not meet the requirements of paragraph (c)(1) of this section, provided that:

(i) *Exceptions: Shutdown and cooling capability.* In the event of postulated failure of the component during normal reactor operation, the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system; or

(ii) *Exceptions: Isolation capability.* The component is or can be isolated from the reactor coolant system by two valves in series (both closed, both open, or one closed and the other open). Each open valve must be capable of automatic actuation and, assuming the other valve is open, its closure time must be such that, in the event of postulated failure of the component during normal reactor operation, each valve remains operable and the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system only.

(3) *Applicable Code and Code Cases and conditions on their use.* The Code edition, addenda, and optional ASME Code Cases to be applied to components of the reactor coolant pressure boundary must be determined by the provisions of paragraph NCA–1140, Subsection NCA of Section III of the ASME BPV Code, subject to the following conditions:

(i) *Reactor coolant pressure boundary condition: Code edition and addenda.* The edition and addenda applied to a component must be those that are incorporated by reference in paragraph (a)(1)(i) of this section;

(ii) *Reactor coolant pressure boundary condition: Earliest edition and addenda for pressure vessel.* The ASME Code provisions applied to the pressure vessel may be dated no earlier than the summer 1972 Addenda of the 1971 Edition;

(iii) *Reactor coolant pressure boundary condition: Earliest edition and addenda for piping, pumps, and valves.* The ASME Code provisions applied to piping, pumps, and valves may be dated no earlier than the Winter 1972 Addenda of the 1971 Edition; and

(iv) *Reactor coolant pressure boundary condition: Use of Code Cases.* The optional Code Cases applied to a component must be those listed in NRC Regulatory Guide 1.84 that is incorporated by reference in paragraph (a)(3)(i) of this section.

(4) *Standards requirement for components in older plants.* For a nuclear power plant whose construction permit was issued prior to May 14, 1984, the applicable Code edition and addenda for a component of the reactor coolant pressure boundary continue to be that Code edition and addenda that were required by Commission regulations for such a component at the time of issuance of the construction permit.

(d) *Quality Group B components.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code as specified in this paragraph. Each manufacturing license, standard design approval, and design certification application under Part 52 of this chapter, and each combined license for a utilization facility is subject to the following conditions:

(1) *Standards requirement for Quality Group B components.* For a nuclear power plant whose application for a construction permit under this part, or a combined license or manufacturing license under Part 52 of this chapter, docketed after May 14, 1984, or for an application for a standard design approval or a standard design certification docketed after May 14, 1984, components classified Quality Group B[9] must meet the requirements for Class 2 Components in Section III of the ASME BPV Code.

(2) Quality Group B: *Applicable Code and Code Cases and conditions on their use.* The Code edition, addenda, and optional ASME Code Cases to be applied to the systems and components identified in paragraph (d)(1) of this section must be determined by the rules of paragraph NCA–1140, Subsection NCA of Section III of the ASME BPV Code, subject to the following conditions:

(i) *Quality Group B condition: Code edition and addenda.* The edition and addenda must be those that are incorporated by reference in paragraph (a)(1)(i) of this section;

(ii) *Quality Group B condition: Earliest edition and addenda for components.* The ASME Code provisions applied to the systems and components may be dated no earlier than the 1980 Edition; and

(iii) *Quality Group B condition: Use of Code Cases.* The optional Code Cases must be those listed in NRC Regulatory Guide 1.84 that is incorporated by reference in paragraph (a)(3)(i) of this section.

(e) *Quality Group C components.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code as specified in this paragraph. Each manufacturing license, standard design approval, and design certification application under Part 52 of this chapter and each combined license for a utilization facility is subject to the following conditions.

(1) *Standards requirement for Quality Group C components.* For a nuclear power plant whose application for a construction permit under this part, or a combined license or manufacturing license under Part 52 of this chapter, docketed after May 14, 1984, or for an application for a standard design approval or a standard design certification docketed after May 14, 1984, components classified Quality Group C[9] must meet the requirements for Class 3 components in Section III of the ASME BPV Code.

(2) Quality Group C a*pplicable Code and Code Cases and conditions on their use.* The Code edition, addenda, and optional ASME Code Cases to be applied to the systems and components identified in paragraph (e)(1) of this section must be determined by the rules of paragraph NCA–1140, subsection NCA of Section III of the ASME BPV Code, subject to the following conditions:

(i) *Quality Group C condition: Code edition and addenda.* The edition and addenda must be those incorporated by reference in paragraph (a)(1)(i) of this section;

(ii) *Quality Group C condition: Earliest edition and addenda for components.* The ASME Code provisions applied to the systems and components may be dated no earlier than the 1980 Edition; and

(iii) *Quality Group C condition: Use of Code Cases.* The optional Code Cases

must be those listed in NRC Regulatory Guide 1.84 that is incorporated by reference in paragraph (a)(3)(i) of this section.

(f) *Inservice testing requirements.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code and ASME Code for Operation and Maintenance of Nuclear Power Plants as specified in this paragraph. Each operating license for a boiling or pressurized water-cooled nuclear facility is subject to the following conditions. Each combined license for a boiling or pressurized water-cooled nuclear facility is subject to the following conditions, but the conditions in paragraphs (f)(4), (f)(5), and (f)(6) of this section must be met only after the Commission makes the finding under § 52.103(g) of this chapter. Requirements for inservice inspection of Class 1, Class 2, Class 3, Class MC, and Class CC components (including their supports) are located in § 50.55a(g).

(1) *Inservice testing requirements for older plants (pre-1971 CPs).* For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued prior to January 1, 1971, pumps and valves must meet the test requirements of paragraphs (f)(4) and (f)(5) of this section to the extent practical. Pumps and valves that are part of the reactor coolant pressure boundary must meet the requirements applicable to components that are classified as ASME Code Class 1. Other pumps and valves that perform a function to shut down the reactor or maintain the reactor in a safe shutdown condition, mitigate the consequences of an accident, or provide overpressure protection for safety-related systems (in meeting the requirements of the 1986 Edition, or later, of the BPV or OM Code) must meet the test requirements applicable to components that are classified as ASME Code Class 2 or Class 3.

(2) *Design and accessibility requirements for performing inservice testing in plants with CPs issued between 1971 and 1974.* For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after January 1, 1971, but before July 1, 1974, pumps and valves that are classified as ASME Code Class 1 and Class 2 must be designed and provided with access to enable the performance of inservice tests for operational readiness set forth in editions and addenda of Section XI of the ASME BPV incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, or Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraphs (a)(3)(ii) and (a)(3)(iii) of this section, respectively) in effect 6 months before the date of issuance of the construction permit. The pumps and valves may meet the inservice test requirements set forth in subsequent editions of this Code and addenda that are incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17; or Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraphs (a)(3)(ii) and (a)(3)(iii) of this section, respectively), subject to the applicable conditions listed therein.

(3) *Design and accessibility requirements for performing inservice testing in plants with CPs issued after 1974.* For a boiling or pressurized water-cooled nuclear power facility whose construction permit under this part or design approval, design certification, combined license, or manufacturing license under Part 52 of this chapter was issued on or after July 1, 1974:

(i)–(ii) [Reserved]

(iii) *IST design and accessibility requirements: Class 1 pumps and valves.*

(A) *Class 1 pumps and valves: first provision.* In facilities whose construction permit was issued before November 22, 1999, pumps and valves that are classified as ASME Code Class 1 must be designed and provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in the editions and addenda of Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, or Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraphs (a)(3)(ii) and (a)(3)(iii) of this section, respectively) applied to the construction of the particular pump or valve or the summer 1973 Addenda, whichever is later.

(B) *Class1 pumps and valves: second provision.* In facilities whose construction permit under this part, or design certification, design approval, combined license, or manufacturing license under Part 52 of this chapter, issued on or after November 22, 1999, pumps and valves that are classified as ASME Code Class 1 must be designed and provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in editions and addenda of the ASME OM Code (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraph (a)(3)(iii) of this section), incorporated by reference in paragraph (a)(1)(iv) of this section at the time the construction permit, combined license, manufacturing license, design certification, or design approval is issued.

(iv) *IST design and accessibility requirements: Class 2 and 3 pumps and valves.*

(A) *Class 2 and 3 pumps and valves: first provision.* In facilities whose construction permit was issued before November 22, 1999, pumps and valves that are classified as ASME Code Class 2 and Class 3 must be designed and be provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in the editions and addenda of Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section) applied to the construction of the particular pump or valve or the Summer 1973 Addenda, whichever is later.

(B) *Class 2 and 3 pumps and valves: second provision.* In facilities whose construction permit under this part, or design certification, design approval, combined license, or manufacturing license under Part 52 of this chapter, issued on or after November 22, 1999, pumps and valves that are classified as ASME Code Class 2 and 3 must be designed and provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in editions and addenda of the ASME OM Code (or the optional ASME OM Code Cases listed in NRC Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraph (a)(3)(iii) of this section), incorporated by reference in paragraph (a)(1)(iv) of this section at the time the construction permit, combined license, or design certification is issued.

(v) *IST design and accessibility requirements: Meeting later IST requirements.* All pumps and valves may meet the test requirements set forth in subsequent editions of codes and addenda or portions thereof that are incorporated by reference in paragraph (a) of this section, subject to the conditions listed in paragraph (b) of this section.

(4) *Inservice testing standards requirement for operating plants.* Throughout the service life of a boiling or pressurized water-cooled nuclear power facility, pumps and valves that are classified as ASME Code Class 1, Class 2, and Class 3 must meet the inservice test requirements (except design and access provisions) set forth in the ASME OM Code and addenda that become effective subsequent to editions and addenda specified in paragraphs (f)(2) and (f)(3) of this section and that are incorporated by reference in paragraph (a)(1)(iv) of this section, to the extent practical within the limitations of design, geometry, and materials of construction of the components.

(i) *Applicable IST Code: Initial 120-month interval.* Inservice tests to verify operational readiness of pumps and valves, whose function is required for safety, conducted during the initial 120-month interval must comply with the requirements in the latest edition and addenda of the OM Code incorporated by reference in paragraph (a)(1)(iv) of this section on the date 12 months before the date of issuance of the operating license under this part, or 12 months before the date scheduled for initial loading of fuel under a combined license under Part 52 of this chapter (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.192, Revision 1, that is incorporated by reference in paragraph (a)(3)(iii) of this section, subject to the conditions listed in paragraph (b) of this section.

(ii) *Applicable IST Code: Successive 120-month intervals.* Inservice tests to verify operational readiness of pumps and valves, whose function is required for safety, conducted during successive 120-month intervals must comply with the requirements of the latest edition and addenda of the OM Code incorporated by reference in paragraph (a)(1)(iv) of this section 12 months before the start of the 120-month interval (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, or Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraphs (a)(3)(ii) and (a)(3)(iii) of this section, respectively), subject to the conditions listed in paragraph (b) of this section.

(iii) [Reserved]

(iv) *Applicable IST Code: Use of later Code editions and addenda.* Inservice tests of pumps and valves may meet the requirements set forth in subsequent editions and addenda that are incorporated by reference in paragraph (a)(1)(iv) of this section, subject to the conditions listed in paragraph (b) of this section, and subject to NRC approval. Portions of editions or addenda may be used, provided that all related requirements of the respective editions or addenda are met.

(5) *Requirements for updating IST programs.*

(i) *IST program update: Applicable IST Code editions and addenda.* The inservice test program for a boiling or pressurized water-cooled nuclear power facility must be revised by the licensee, as necessary, to meet the requirements of paragraph (f)(4) of this section.

(ii) *IST program update: Conflicting IST Code requirements with technical specifications.* If a revised inservice test program for a facility conflicts with the technical specifications for the facility, the licensee must apply to the Commission for amendment of the technical specifications to conform the technical specifications to the revised program. The licensee must submit this application, as specified in § 50.4, at least 6 months before the start of the period during which the provisions become applicable, as determined by paragraph (f)(4) of this section.

(iii) *IST program update: Notification of impractical IST Code requirements.* If the licensee has determined that conformance with certain Code requirements is impractical for its facility, the licensee must notify the Commission and submit, as specified in § 50.4, information to support the determination.

(iv) *IST program update: Schedule for completing impracticality determinations.* Where a pump or valve test requirement by the Code or addenda is determined to be impractical by the licensee and is not included in the revised inservice test program (as permitted by paragraph (f)(4) of this section), the basis for this determination must be submitted for NRC review and approval not later than 12 months after the expiration of the initial 120-month interval of operation from the start of facility commercial operation and each subsequent 120-month interval of operation during which the test is determined to be impractical.

(6) *Actions by the Commission for evaluating impractical and augmented IST Code requirements.*

(i) *Impractical IST requirements: Granting of relief.* The Commission will evaluate determinations under paragraph (f)(5) of this section that code requirements are impractical. The Commission may grant relief and may impose such alternative requirements as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest, giving due consideration to the burden upon the licensee that could result if the requirements were imposed on the facility.

(ii) *Augmented IST requirements.* The Commission may require the licensee to follow an augmented inservice test program for pumps and valves for which the Commission deems that added assurance of operational readiness is necessary.

(g) *Inservice inspection requirements.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code as specified in this paragraph. Each operating license for a boiling or pressurized water-cooled nuclear facility is subject to the following conditions. Each combined license for a boiling or pressurized water-cooled nuclear facility is subject to the following conditions, but the conditions in paragraphs (g)(4), (g)(5), and (g)(6) of this section must be met only after the Commission makes the finding under § 52.103(g) of this chapter. Requirements for inservice testing of Class 1, Class 2, and Class 3 pumps and valves are located in § 50.55a(f).

(1) *Inservice inspection requirements for older plants (pre-1971 CPs).* For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued before January 1, 1971, components (including supports) must meet the requirements of paragraphs (g)(4) and (g)(5) of this section to the extent practical. Components that are part of the reactor coolant pressure boundary and their supports must meet the requirements applicable to components that are classified as ASME Code Class 1. Other safety-related pressure vessels, piping, pumps and valves, and their supports must meet the requirements applicable to components that are classified as ASME Code Class 2 or Class 3.

(2) *Design and accessibility requirements for performing inservice inspection in plants with CPs issued between 1971 and 1974.* For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after January 1, 1971, but before July 1, 1974, components (including supports) that are classified as ASME Code Class 1 and Class 2 must be designed and be provided with access to enable the performance of inservice examination of such components (including supports) and must meet the preservice examination requirements set forth in editions and addenda of Section III or Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1) of this section (or the optional ASME Code

Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section) in effect 6 months before the date of issuance of the construction permit. The components (including supports) may meet the requirements set forth in subsequent editions and addenda of this Code that are incorporated by reference in paragraph (a) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section), subject to the applicable limitations and modifications.

(3) *Design and accessibility requirements for performing inservice inspection in plants with CPs issued after 1974.* For a boiling or pressurized water-cooled nuclear power facility, whose construction permit under this part, or design certification, design approval, combined license, or manufacturing license under Part 52 of this chapter, was issued on or after July 1, 1974, the following are required:

(i) *ISI design and accessibility requirements: Class 1 components and supports.* Components (including supports) that are classified as ASME Code Class 1 must be designed and be provided with access to enable the performance of inservice examination of these components and must meet the preservice examination requirements set forth in the editions and addenda of Section III or Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section) applied to the construction of the particular component.

(ii) *ISI design and accessibility requirements: Class 2 and 3 components and supports.* Components that are classified as ASME Code Class 2 and Class 3 and supports for components that are classified as ASME Code Class 1, Class 2, and Class 3 must be designed and provided with access to enable the performance of inservice examination of these components and must meet the preservice examination requirements set forth in the editions and addenda of Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section) applied to the construction of the particular component.

(iii)–(iv) [Reserved]

(v) *ISI design and accessibility requirements: Meeting later ISI requirements.* All components (including supports) may meet the requirements set forth in subsequent editions of codes and addenda or portions thereof that are incorporated by reference in paragraph (a) of this section, subject to the conditions listed therein.

(4) *Inservice inspection standards requirement for operating plants.* Throughout the service life of a boiling or pressurized water-cooled nuclear power facility, components (including supports) that are classified as ASME Code Class 1, Class 2, and Class 3 must meet the requirements, except design and access provisions and preservice examination requirements, set forth in Section XI of editions and addenda of the ASME BPV Code (or ASME OM Code for snubber examination and testing) that become effective subsequent to editions specified in paragraphs (g)(2) and (g)(3) of this section and that are incorporated by reference in paragraph (a)(1)(ii) or (a)(1)(iv) for snubber examination and testing of this section, to the extent practical within the limitations of design, geometry, and materials of construction of the components. Components that are classified as Class MC pressure retaining components and their integral attachments, and components that are classified as Class CC pressure retaining components and their integral attachments, must meet the requirements, except design and access provisions and preservice examination requirements, set forth in Section XI of the ASME BPV Code and addenda that are incorporated by reference in paragraph (a)(1)(ii) of this section, subject to the condition listed in paragraph (b)(2)(vi) of this section and the conditions listed in paragraphs (b)(2)(viii) and (b)(2)(ix) of this section, to the extent practical within the limitation of design, geometry, and materials of construction of the components.

(i) *Applicable ISI Code: Initial 120-month interval.* Inservice examination of components and system pressure tests conducted during the initial 120-month inspection interval must comply with the requirements in the latest edition and addenda of the Code incorporated by reference in paragraph (a) of this section on the date 12 months before the date of issuance of the operating license under this part, or 12 months before the date scheduled for initial loading of fuel under a combined license under Part 52 of this chapter (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, when using Section XI, or Regulatory Guide 1.192, Revision 1, when using the OM Code, that are incorporated by reference in paragraphs (a)(3)(ii) and (a)(3)(iii) of this section, respectively), subject to the conditions listed in paragraph (b) of this section.

(ii) *Applicable ISI Code: Successive 120-month intervals.* Inservice examination of components and system pressure tests conducted during successive 120-month inspection intervals must comply with the requirements of the latest edition and addenda of the Code incorporated by reference in paragraph (a) of this section 12 months before the start of the 120-month inspection interval (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, when using Section XI, or Regulatory Guide 1.192, Revision 1, when using the OM Code, that are incorporated by reference in paragraphs (a)(3)(ii) and (a)(3)(iii) of this section), subject to the conditions listed in paragraph (b) of this section. However, a licensee whose inservice inspection interval commences during the 12 through 18-month period after July 21, 2011, may delay the update of their Appendix VIII program by up to 18 months after July 21, 2011.

(iii) *Applicable ISI Code: Optional surface examination requirement.* When applying editions and addenda prior to the 2003 Addenda of Section XI of the ASME BPV Code, licensees may, but are not required to, perform the surface examinations of high-pressure safety injection systems specified in Table IWB–2500–1, Examination Category B–J, Item Numbers B9.20, B9.21, and B9.22.

(iv) *Applicable ISI Code: Use of subsequent Code editions and addenda.* Inservice examination of components and system pressure tests may meet the requirements set forth in subsequent editions and addenda that are incorporated by reference in paragraph (a) of this section, subject to the conditions listed in paragraph (b) of this section, and subject to Commission approval. Portions of editions or addenda may be used, provided that all related requirements of the respective editions or addenda are met.

(v) *Applicable ISI Code: Metal and concrete containments.* For a boiling or pressurized water-cooled nuclear power facility whose construction permit under this part or combined license under Part 52 of this chapter was issued after January 1, 1956, the following are required:

(A) *Metal and concrete containments: first provision.* Metal containment pressure retaining components and their

integral attachments must meet the inservice inspection, repair, and replacement requirements applicable to components that are classified as ASME Code Class MC;

(B) *Metal and concrete containments: second provision.* Metallic shell and penetration liners that are pressure retaining components and their integral attachments in concrete containments must meet the inservice inspection, repair, and replacement requirements applicable to components that are classified as ASME Code Class MC; and

(C) *Metal and concrete containments: third provision.* Concrete containment pressure retaining components and their integral attachments, and the post-tensioning systems of concrete containments, must meet the inservice inspections, repair, and replacement requirements applicable to components that are classified as ASME Code Class CC.

(5) *Requirements for updating ISI programs.*

(i) *ISI program update: Applicable ISI Code editions and addenda.* The inservice inspection program for a boiling or pressurized water-cooled nuclear power facility must be revised by the licensee, as necessary, to meet the requirements of paragraph (g)(4) of this section.

(ii) *ISI program update: Conflicting ISI Code requirements with technical specifications.* If a revised inservice inspection program for a facility conflicts with the technical specifications for the facility, the licensee must apply to the Commission for amendment of the technical specifications to conform the technical specifications to the revised program. The licensee must submit this application, as specified in § 50.4, at least six months before the start of the period during which the provisions become applicable, as determined by paragraph (g)(4) of this section.

(iii) *ISI program update: Notification of impractical ISI Code requirements.* If the licensee has determined that conformance with a Code requirement is impractical for its facility the licensee must notify the NRC and submit, as specified in § 50.4, information to support the determinations. Determinations of impracticality in accordance with this section must be based on the demonstrated limitations experienced when attempting to comply with the Code requirements during the inservice inspection interval for which the request is being submitted. Requests for relief made in accordance with this section must be submitted to the NRC no later than 12 months after the expiration of the initial or subsequent 120-month inspection interval for which relief is sought.

(iv) *ISI program update: Schedule for completing impracticality determinations.* Where the licensee determines that an examination required by Code edition or addenda is impractical, the basis for this determination must be submitted for NRC review and approval not later than 12 months after the expiration of the initial or subsequent 120-month inspection interval for which relief is sought.

(6) *Actions by the Commission for evaluating impractical and augmented ISI Code requirements.*

(i) *Impractical ISI requirements: Granting of relief.* The Commission will evaluate determinations under paragraph (g)(5) of this section that code requirements are impractical. The Commission may grant such relief and may impose such alternative requirements as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest giving due consideration to the burden upon the licensee that could result if the requirements were imposed on the facility.

(ii) *Augmented ISI program.* The Commission may require the licensee to follow an augmented inservice inspection program for systems and components for which the Commission deems that added assurance of structural reliability is necessary.

(A) [Reserved]

(B) *Augmented ISI requirements: Submitting containment ISI programs.* Licensees do not have to submit to the NRC for approval of their containment inservice inspection programs that were developed to satisfy the requirements of Subsection IWE and Subsection IWL with specified conditions. The program elements and the required documentation must be maintained on site for audit.

(C) *Augmented ISI requirements: Implementation of Appendix VIII to Section XI.*

(*1*) Appendix VIII and the supplements to Appendix VIII to Section XI, Division 1, 1995 Edition with the 1996 Addenda of the ASME BPV Code must be implemented in accordance with the following schedule: Appendix VIII and Supplements 1, 2, 3, and 8—May 22, 2000; Supplements 4 and 6—November 22, 2000; Supplement 11—November 22, 2001; and Supplements 5, 7, and 10—November 22, 2002.

(*2*) Licensees implementing the 1989 Edition and earlier editions and addenda of IWA–2232 of Section XI, Division 1, of the ASME BPV Code must implement the 1995 Edition with the 1996 Addenda of Appendix VIII and the supplements to Appendix VIII of Section XI, Division 1, of the ASME BPV Code.

(D) *Augmented ISI requirements: Reactor vessel head inspections.*

(*1*) All licensees of pressurized water reactors must augment their inservice inspection program with ASME Code Case N–729–1, subject to the conditions specified in paragraphs (g)(6)(ii)(D)(*2*) through (*6*) of this section. Licensees of existing operating reactors as of September 10, 2008, must implement their augmented inservice inspection program by December 31, 2008. Once a licensee implements this requirement, the First Revised NRC Order EA–03–009 no longer applies to that licensee and must be deemed to be withdrawn.

(*2*) Note 9 of ASME Code Case N–729–1 must not be implemented.

(*3*) Instead of the specified ''examination method'' requirements for volumetric and surface examinations in Note 6 of Table 1 of Code Case N–729–1, the licensee must perform volumetric and/or surface examination of essentially 100 percent of the required volume or equivalent surfaces of the nozzle tube, as identified by Figure 2 of ASME Code Case N–729–1. A demonstrated volumetric or surface leak path assessment through all J-groove welds must be performed. If a surface examination is being substituted for a volumetric examination on a portion of a penetration nozzle that is below the toe of the J-groove weld [Point E on Figure 2 of ASME Code Case N–729–1], the surface examination must be of the inside and outside wetted surface of the penetration nozzle not examined volumetrically.

(*4*) By September 1, 2009, ultrasonic examinations must be performed using personnel, procedures, and equipment that have been qualified by blind demonstration on representative mockups using a methodology that meets the conditions specified in paragraphs (g)(6)(ii)(D)(*4*)(*i*) through (g)(6)(ii)(D)(*4*)(*iv*), instead of the qualification requirements of Paragraph –2500 of ASME Code Case N–729–1. References herein to Section XI, Appendix VIII, must be to the 2004 Edition with no addenda of the ASME BPV Code.

(*i*) The specimen set must have an applicable thickness qualification range of +25 percent to −40 percent for nominal depth through-wall thickness. The specimen set must include geometric and material conditions that normally require discrimination from

primary water stress corrosion cracking (PWSCC) flaws.

(*ii*) The specimen set must have a minimum of ten (10) flaws that provide an acoustic response similar to PWSCC indications. All flaws must be greater than 10 percent of the nominal pipe wall thickness. A minimum of 20 percent of the total flaws must initiate from the inside surface and 20 percent from the outside surface. At least 20 percent of the flaws must be in the depth ranges of 10–30 percent through-wall thickness and at least 20 percent within a depth range of 31–50 percent through-wall thickness. At least 20 percent and no more than 60 percent of the flaws must be oriented axially.

(*iii*) Procedures must identify the equipment and essential variables and settings used for the qualification, in accordance with Subarticle VIII–2100 of Section XI, Appendix VIII. The procedure must be requalified when an essential variable is changed outside the demonstration range as defined by Subarticle VIII–3130 of Section XI, Appendix VIII, and as allowed by Articles VIII–4100, VIII–4200, and VIII–4300 of Section XI, Appendix VIII. Procedure qualification must include the equivalent of at least three personnel performance demonstration test sets. Procedure qualification requires at least one successful personnel performance demonstration.

(*iv*) Personnel performance demonstration test acceptance criteria must meet the personnel performance demonstration detection test acceptance criteria of Table VIII—S10–1 of Section XI, Appendix VIII, Supplement 10. Examination procedures, equipment, and personnel are qualified for depth sizing and length sizing when the RMS error, as defined by Subarticle VIII–3120 of Section XI, Appendix VIII, of the flaw depth measurements, as compared to the true flaw depths, do not exceed ⅛ inch (3 mm) and the root mean square (RMS) error of the flaw length measurements, as compared to the true flaw lengths, do not exceed ⅜ inch (10 mm), respectively.

(*5*) If flaws attributed to PWSCC have been identified, whether acceptable or not for continued service under Paragraphs –3130 or –3140 of ASME Code Case N–729–1, the re-inspection interval must be each refueling outage instead of the re-inspection intervals required by Table 1, Note (8), of ASME Code Case N–729–1.

(*6*) Appendix I of ASME Code Case N–729–1 must not be implemented without prior NRC approval.

(E) *Augmented ISI requirements: Reactor coolant pressure boundary visual inspections.*

(*1*) All licensees of pressurized water reactors must augment their inservice inspection program by implementing ASME Code Case N–722–1, subject to the conditions specified in paragraphs (g)(6)(ii)(E)(*2*) through (g)(6)(ii)(E)(*4*) of this section. The inspection requirements of ASME Code Case N–722–1 do not apply to components with pressure retaining welds fabricated with Alloy 600/82/182 materials that have been mitigated by weld overlay or stress improvement.

(*2*) If a visual examination determines that leakage is occurring from a specific item listed in Table 1 of ASME Code Case N–722–1 that is not exempted by the ASME Code, Section XI, IWB–1220(b)(1), additional actions must be performed to characterize the location, orientation, and length of a crack or cracks in Alloy 600 nozzle wrought material and location, orientation, and length of a crack or cracks in Alloy 82/182 butt welds. Alternatively, licensees may replace the Alloy 600/82/182 materials in all the components under the item number of the leaking component.

(*3*) If the actions in paragraph (g)(6)(ii)(E)(*2*) of this section determine that a flaw is circumferentially oriented and potentially a result of primary water stress corrosion cracking, licensees must perform non-visual NDE inspections of components that fall under that ASME Code Case N–722–1 item number. The number of components inspected must equal or exceed the number of components found to be leaking under that item number. If circumferential cracking is identified in the sample, non-visual NDE must be performed in the remaining components under that item number.

(4) If ultrasonic examinations of butt welds are used to meet the NDE requirements in paragraphs (g)(6)(ii)(E)(*2*) or (g)(6)(ii)(E)(*3*) of this section, they must be performed using the appropriate supplement of Section XI, Appendix VIII, of the ASME BPV Code.

(F) *Augmented ISI requirements: Examination requirements for Class 1 piping and nozzle dissimilar-metal butt welds.*

(*1*) Licensees of existing, operating pressurized-water reactors as of July 21, 2011, must implement the requirements of ASME Code Case N–770–1, subject to the conditions specified in paragraphs (g)(6)(ii)(F)*(2)* through (g)(6)(ii)(F)*(10)* of this section, by the first refueling outage after August 22, 2011.

(*2*) Full structural weld overlays authorized by the NRC staff may be categorized as Inspection Items C or F, as appropriate. Welds that have been mitigated by the Mechanical Stress Improvement Process (MSIP™) may be categorized as Inspection Items D or E, as appropriate, provided the criteria in Appendix I of the Code Case have been met. For ISI frequencies, all other butt welds that rely on Alloy 82/182 for structural integrity must be categorized as Inspection Items A–1, A–2 or B until the NRC staff has reviewed the mitigation and authorized an alternative Code Case Inspection Item for the mitigated weld, or until an alternative Code Case Inspection Item is used based on conformance with an ASME mitigation Code Case endorsed in Regulatory Guide 1.147 with conditions, if applicable, and incorporated by reference in this section.

(*3*) Baseline examinations for welds in Table 1, Inspection Items A–1, A–2, and B, must be completed by the end of the next refueling outage after January 20, 2012. Previous examinations of these welds can be credited for baseline examinations if they were performed within the re-inspection period for the weld item in Table 1 using Section XI, Appendix VIII, requirements and met the Code required examination volume of essentially 100 percent. Other previous examinations that do not meet these requirements can be used to meet the baseline examination requirement, provided NRC approval of alternative inspection requirements in accordance with paragraphs (z)(1) or (z)(2) of this section is granted prior to the end of the next refueling outage after January 20, 2012.

(*4*) The axial examination coverage requirements of Paragraph—2500(c) may not be considered to be satisfied unless essentially 100 percent coverage is achieved.

(*5*) All hot-leg operating temperature welds in Inspection Items G, H, J, and K must be inspected each inspection interval. A 25 percent sample of Inspection Items G, H, J, and K cold-leg operating temperature welds must be inspected whenever the core barrel is removed (unless it has already been inspected within the past 10 years) or 20 years, whichever is less.

(*6*) For any mitigated weld whose volumetric examination detects growth of existing flaws in the required examination volume that exceed the previous IWB–3600 flaw evaluations or new flaws, a report summarizing the evaluation, along with inputs, methodologies, assumptions, and causes of the new flaw or flaw growth is to be provided to the NRC prior to the weld being placed in service other than modes 5 or 6.

(*7*) For Inspection Items G, H, J, and K, when applying the acceptance

standards of ASME BPV Code, Section XI, IWB–3514, for planar flaws contained within the inlay or onlay, the thickness ''t'' in IWB–3514 is the thickness of the inlay or onlay. For planar flaws in the balance of the dissimilar metal weld examination volume, the thickness ''t'' in IWB–3514 is the combined thickness of the inlay or onlay and the dissimilar metal weld.

(*8*) Welds mitigated by optimized weld overlays in Inspection Items D and E are not permitted to be placed into a population to be examined on a sample basis and must be examined once each inspection interval.

(*9*) Replace the first two sentences of Extent and Frequency of Examination for Inspection Item D in Table 1 of Code Case N–770–1 with, ''Examine all welds no sooner than the third refueling outage and no later than 10 years following stress improvement application.'' Replace the first two sentences of Note (11)(b)(2) in Code Case N–770–1 with, ''The first examination following weld inlay, onlay, weld overlay, or stress improvement for Inspection Items D through K must be performed as specified.''

(*10*) General Note (b) to Figure 5(a) of Code Case N–770–1 pertaining to alternative examination volume for optimized weld overlays may not be applied unless NRC approval is authorized under paragraphs (z)(1) or (z)(2) of this section.

(h) *Protection and safety systems.* Protection systems of nuclear power reactors of all types must meet the requirements specified in this paragraph. Each combined license for a utilization facility is subject to the following conditions.

(1) [Reserved]

(2) *Protection systems.* For nuclear power plants with construction permits issued after January 1, 1971, but before May 13, 1999, protection systems must meet the requirements stated in either IEEE Std. 279, ''Criteria for Protection Systems for Nuclear Power Generating Stations,'' or in IEEE Std. 603–1991, ''Criteria for Safety Systems for Nuclear Power Generating Stations,'' and the correction sheet dated January 30, 1995. For nuclear power plants with construction permits issued before January 1, 1971, protection systems must be consistent with their licensing basis or may meet the requirements of IEEE Std. 603–1991 and the correction sheet dated January 30, 1995.

(3) *Safety systems.* Applications filed on or after May 13, 1999, for construction permits and operating licenses under this part, and for design approvals, design certifications, and combined licenses under Part 52 of this chapter, must meet the requirements for safety systems in IEEE Std. 603–1991 and the correction sheet dated January 30, 1995.

(i) through (y) [Reserved]

(z) *Alternatives to codes and standards requirements.* Alternatives to the requirements of paragraphs (b), (c), (d), (e), (f), (g), and (h) of this section or portions thereof may be used when authorized by the Director, Office of Nuclear Reactor Regulation, or Director, Office of New Reactors, as appropriate. A proposed alternative must be submitted and authorized prior to implementation. The applicant or licensee must demonstrate that:

(1) *Acceptable level of quality and safety.* The proposed alternative would provide an acceptable level of quality and safety; or

(2) *Hardship without a compensating increase in quality and safety.* Compliance with the specified requirements of this section would result in hardship or unusual difficulty without a compensating increase in the level of quality and safety.

Footnotes to § 50.55a:

[1] For inspections to be conducted once per interval, the inspections must be performed in accordance with the schedule in Section XI, paragraph IWB–2400, except for plants with inservice inspection programs based on a Section XI edition or addenda prior to the 1994 Addenda. For plants with inservice inspection programs based on a Section XI edition or addenda prior to the 1994 Addenda, the inspection must be performed in accordance with the schedule in Section XI, paragraph IWB–2400, of the 1994 Addenda.

[2–3] [Reserved]

[4] USAS and ASME Code addenda issued prior to the winter 1977 Addenda are considered to be ''in effect'' or ''effective'' 6 months after their date of issuance *and* after they are incorporated by reference in paragraph (a) of this section. Addenda to the ASME Code issued after the summer 1977 Addenda are considered to be ''in effect'' or ''effective'' after the date of publication of the addenda *and* after they are incorporated by reference in paragraph (a) of this section.

[5] For ASME Code editions and addenda issued prior to the winter 1977 Addenda, the Code edition and addenda applicable to the component is governed by the order or contract date for the component, not the contract date for the nuclear energy system. For the winter 1977 Addenda and subsequent editions and addenda the method for determining the applicable Code editions and addenda is contained in Paragraph NCA 1140 of Section III of the ASME Code.

[6–8] [Reserved]

[9] Guidance for quality group classifications of components that are to be included in the safety analysis reports pursuant to § 50.34(a) and § 50.34(b) may be found in Regulatory Guide 1.26, ''Quality Group Classifications and Standards for Water-, Steam-, and Radiological-Waste-Containing Components of Nuclear Power Plants,'' and in Section 3.2.2 of NUREG–0800, ''Standard Review Plan for Review of Safety Analysis Reports for Nuclear Power Plants.''

Dated at Rockville, Maryland, this 7th day of June 2013.

For the Nuclear Regulatory Commission.

Jennifer L. Uhle,

Deputy Director, Reactor Safety Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–15022 Filed 6–21–13; 8:45 am]

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FEDERAL REGISTER

Vol. 78 Monday,

No. 121 June 24, 2013

Part III

The President

Memorandum of June 19, 2013—Delegation of Reporting Functions Specified in Section 491 of Title 10, United States Code

Notice of June 20, 2013—Continuation of the National Emergency With Respect to the Disposition of Russian Highly Enriched Uranium

Federal Register
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Presidential Documents

Title 3—

The President

Memorandum of June 19, 2013

Delegation of Reporting Functions Specified in Section 491 of Title 10, United State Code

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the reporting functions conferred upon the President by section 491 of title 10, United States Code.

You are authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, June 19, 2013.

[FR Doc. 2013–15234
Filed 6–21–13; 11:15 am]
Billing code 5001–06

Presidential Documents

Notice of June 20, 2013

Continuation of the National Emergency With Respect to the Disposition of Russian Highly Enriched Uranium

On June 25, 2012, by Executive Order 13617, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation.

Full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the ''HEU Agreements'') is essential to the attainment of U.S. national security and foreign policy goals. Assets of the Government of the Russian Federation directly related to the implementation of the HEU Agreements may be subject to attachment, judgment, decree, lien, execution, garnishment, or other judicial process, thereby jeopardizing the full implementation of the HEU Agreements to the detriment of U.S. national security and foreign policy. In order to ensure the preservation and proper and complete transfer to the Government of the Russian Federation of all payments due to it under the HEU Agreements, in Executive Order 13617 I ordered the blocking of all property and interests in property of the Government of the Russian Federation directly related to the implementation of the HEU Agreements and declared any attachment, judgment, decree, lien, execution, garnishment, or other judicial process with respect to such blocked property to be null and void, unless licensed or authorized pursuant to Executive Order 13617 or Executive Order 13159 of June 21, 2000.

The risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13617 of June 25, 2012, and the measures adopted on that date to deal with that emergency, must continue in effect beyond June 25, 2013. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared with respect to the disposition of Russian highly enriched uranium declared in Executive Order 13617.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
June 20, 2013.

[FR Doc. 2013–15235
Filed 6–21–13; 11:15 am]
Billing code 3295–F3

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