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WHEN: Tuesday, September 17, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0623; Directorate Identifier 2013–NM–109–AD; Amendment 39–17516; AD 2013–14–11]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440), CL–600–2C10 (Regional Jet Series 700, 701, & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. This AD requires revising the airplane flight manual (AFM) by incorporating an emergency procedure for uncommanded yaw motion. This AD was prompted by reports of airplanes experiencing uncommanded rudder movements while in flight. We are issuing this AD to advise the flightcrew of procedures to address a possible failure of the voltage regulator inside the yaw damper actuator that could lead to uncommanded yaw movement and consequent loss of the ability to control the airplane.

DATES: This AD becomes effective August 9, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 9, 2013.

We must receive comments on this AD by September 9, 2013.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–13, dated May 28, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> There have been several reported incidents where Bombardier Regional Jet aeroplanes experienced in flight uncommanded rudder movements. Investigation revealed that a failure of the voltage regulator inside the yaw damper actuator could lead to uncommanded yaw movement. If not corrected, this condition could lead to the loss of the * * * [ability to control the] aeroplane.
>
> This [TCCA] AD mandates the introduction of an emergency procedure to the Aeroplane Flight Manual (AFM) to address the above mentioned unsafe condition.

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

Relevant Service Information

Bombardier Inc., has issued the following emergency procedures for the AFMs:

- For Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes: Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06, Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2B19 AFM, CSP A–012, Revision 61, dated April 2, 2013.
- For Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes: Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06, Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2C10 AFM, CSP B–012, Revision 11, dated February 14, 2013.
- For Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes: Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06, Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2D24 and Model CL–600–2D15 AFM, CSP C–012, Revision 7, dated February 14, 2013.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of a possible failure of the voltage regulator inside the yaw damper actuator that could lead to uncommanded yaw movement, which could lead to the loss of the ability to control the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0623; Directorate Identifier 2013–NM–109–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD affects 929 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revision	1 work-hour × $85 per hour = $85	$0	$85	$78,965

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–14–11 Bombardier, Inc.: Amendment 39–17516. Docket No. FAA–2013–0623; Directorate Identifier 2013–NM–109–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 9, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all airplanes specified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category.

(1) Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes.

(2) Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes.

(3) Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) airplanes.

(4) Bombardier, Inc. Model CL–600–2D24 (Regional Jet Series 900) airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 2720, Rudder Control System.

(e) Reason

This AD was prompted by reports of airplanes experiencing uncommanded rudder movements while in flight. We are issuing this AD to advise the flightcrew of procedures to address a possible failure of the voltage regulator inside the yaw damper actuator that could lead to uncommanded yaw movement and consequent loss of the ability to control the airplane.

(f) Compliance

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

(g) Airplane Flight Manual (AFM) Revision

Within 30 days after the effective date of this AD, revise the Emergency Procedures Section and the Limitations Section of the Bombardier AFM to incorporate the ''Uncommanded Yaw Motion'' procedure specified in paragraphs (g)(1) through (g)(3) of this AD, as applicable.

(1) For Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes: Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06,

Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2B19 AFM CSP A–012, Revision 61, dated April 2, 2013.

(2) For Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes: Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06, Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2C10 AFM, CSP B–012, Revision 11, dated February 14, 2013.

(3) For Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes: Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06, Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2D24 and Model CL–600–2D15 AFM, CSP C–012, Revision 7, dated February 14, 2013.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(i) Related Information

Refer to Mandatory Continuing Airworthiness Information Canadian Airworthiness Directive CF–2013–13, dated May 28, 2013, for related information.

(j) Material Incorporated by Reference

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

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

(i) Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06, Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2B19 Airplane Flight Manual CSP A–012, Revision 61, dated April 2, 2013.

(ii) Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06, Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2C10 Airplane Flight Manual CSP B–012, Revision 11, dated February 14, 2013.

(iii) Procedure 1., Automatic Flight Control System (AFCS), of Section 03–06, Emergency Procedures—Automatic Flight Control System, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2D24 and Model CL–600–2D15 Airplane Flight Manual CSP C–012, Revision 7, dated February 14, 2013.

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

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

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

Issued in Renton, Washington, on July 11, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17294 Filed 7–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. FAA–2010–0100; Amdt. Nos. 61–130A]

RIN 2120–AJ67

Pilot Certification and Qualification Requirements for Air Carrier Operations; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a final rule published on July 15, 2013 (78 FR 42324). In that rule, which became effective on July 15, 2013, the date of publication, the FAA amended its regulations to create new certification and qualification requirements for pilots in air carrier operations. This document corrects errors in the regulatory text of that document.

DATES: Effective: July 25, 2013.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this correction contact Barbara Adams, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8166; facsimile (202) 267–5299, email *barbara.adams@faa.gov.*

For legal questions concerning this correction contact Anne Moore, Office of the Chief Counsel—International Law, Legislation, and Regulations Division, AGC–240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3123; facsimile (202) 267–7971, email *anne.moore@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, the FAA published a final rule entitled, ''Pilot Certification and Qualification Requirements for Air Carrier Operations'' (78 FR 42324). In that final rule, which became effective July 15, 2013, the FAA revised the aeronautical experience requirements for an airline transport pilot (ATP) certificate in § 61.159(a) by adding paragraph (a)(3) which requires pilots to obtain 50 hours in the class of airplane for the ATP certificate sought and by revising former paragraph (a)(5) to permit pilots to credit time in a flight simulation training device (FSTD) accomplished in approved training programs under parts 121, 135, and 141 toward the aeronautical experience requirements for the ATP certificate. Under the prior rule, only FSTD time accomplished as part of an approved training course in part 142 could be credited.

Correction

In the amendatory language, the FAA mistakenly directed that redesignated paragraph (a)(5) be revised to permit the FSTD time in parts 121, 135, and 141 to be credited. In fact, because the final rule added new paragraph (a)(3), the amendatory language should have directed that redesignated paragraph (a)(6) should be revised. Accordingly, the FAA is issuing this correction to

restore former paragraph (a)(4) [1] which was inadvertently removed from the final rule.

List of Subjects in 14 CFR Part 61

Aircraft, Airmen, Aviation safety.

The Correcting Amendment

In consideration of the foregoing, the Federal Aviation Administration chapter I of title 14, Code of Federal Regulations as follows:

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 2. Amend § 61.159 as follows:
■ A. Remove paragraph (a)(6);
■ B. Redesignate paragraph (a)(5) as (a)(6); and
■ C. Add a new paragraph (a)(5).

The addition reads as follows:

§ 61.159 Aeronautical experience: Airplane category rating.

(a) * * *

(5) 250 hours of flight time in an airplane as a pilot in command, or as second in command performing the duties of pilot in command while under the supervision of a pilot in command, or any combination thereof, which includes at least—

(i) 100 hours of cross-country flight time; and

(ii) 25 hours of night flight time.

* * * * *

Issued in Washington, DC under the authority provided by 49 U.S.C. 106(f), 44701(a) and Secs. 216–217, Public Law 111–216, 124 Stat. 2348 on July 19, 2013.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2013–17811 Filed 7–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No.30913; Amdt. No. 508]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: Effective 0901 UTC, August 22, 2013.

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

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

The Rule

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

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on July 19, 2013.

John M. Allen,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, August 22, 2013.

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

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

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

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[1] Former § 61.159(a)(4) [new paragraph (a)(5)] pertains to pilot in command flight time requirements.

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 508 Effective Date August 22, 2013]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3291 RNAV Route T291 Is Added To Read			
LOUIE, MD FIX	BAABS, MD WP	*5000	11000
*1800—MOCA			
BAABS, MD WP	HARRISBURG, PA VORTAC	*5000	11000
*3000—MOCA			
§ 95.3295 RNAV Route T295 Is Added To Read			
LOUIE, MD FIX	BAABS, MD WP	*5000	11000
*1800—MOCA			
BAABS, MD WP	LANCASTER, PA VORTAC	*5000	11000
*2400—MOCA			
§ 95.4000 High Altitude RNAV Routes			
§ 95.4035 RNAV Route Q35 Is Amended To Read in Part			
NEERO, NV WP	KOATA, OR WP	*29000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
KOATA, OR WP	KIMBERLY, OR VORTAC	*29000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4068 RNAV Route Q68 Is Added To Read			
CHARLESTON, WV VORTAC	TOMCA, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
TOMCA, WV WP	RONZZ, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
RONZZ, WV WP	HHOLZ, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HHOLZ, WV WP	HAMME, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HAMME, WV WP	CAPOE, VA WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CAPOE, VA WP	OTTTO, VA WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4072 RNAV Route Q72 Is Added To Read			
HACKS, WV FIX	GEQUE, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
GEQUE, WV WP	BENSH, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
BENSH, WV WP	RAMAY, VA WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4080 RNAV Route Q80 Is Added To Read			
FAREV, KY WP	JEDER, KY WP	*18000	18000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
JEDER, KY WP	ENGRA, KY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
ENGRA, KY WP	DEWAK, KY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
DEWAK, KY WP	CEGMA, KY WP	*18000	45000
*18000—GNSS MEA			

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 508 Effective Date August 22, 2013]

From	To	MEA	MAA
*DME/DME/IRU MEA			
CEGMA, KY WP	JONEN, KY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
JONEN, KY WP	BULVE, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
BULVE, WV WP	WISTA, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
WISTA, WV WP	LEVII, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
LEVII, WV WP	RONZZ, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
RONZZ, WV WP	HHOLZ, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HHOLZ, WV WP	HAMME, WV WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HAMME, WV WP	CAPOE, VA WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CAPOE, VA WP	OTTTO, VA WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			

From	To	MEA
§ 95.6001 Victor Routes—U.S		
§ 95.6009 VOR Federal Airway V9 Is Amended To Read in Part		
MC COMB, MS VORTAC	*ROMAR, MS FIX	2300
*4000—MRA		
*ROMAR, MS FIX	MAGNOLIA, MS VORTAC	2300
*4000—MRA		
MAGNOLIA, MS VORTAC	SIDON, MS VORTAC	2000
§ 95.6011 VOR Federal Airway V11 Is Amended To Read in Part		
GREENE COUNTY, MS VORTAC	MIZZE, MS FIX	*4000
*1900—MOCA		
*3000—GNSS MEA		
MIZZE, MS FIX	MAGNOLIA, MS VORTAC	*3000
*2400—MOCA		
MAGNOLIA, MS VORTAC	SIDON, MS VORTAC	2000
§ 95.6012 VOR Federal Airway V12 Is Amended To Read in Part		
HARRISBURG, PA VORTAC	KUPPS, PA FIX	3100
KUPPS, PA FIX	BOYER, PA FIX	#000
#UNUSABLE		
BOYER, PA FIX	POTTSTOWN, PA VORTAC	*3000
*2400—MOCA		
§ 95.6014 VOR Federal Airway V14 Is Amended To Read in Part		
*FLATT, TX FIX	SHALO, TX FIX	5200
*8000—MRA		
§ 95.6018 VOR Federal Airway V18 Is Amended To Read In Part		
MONROE, LA VORTAC	MAGNOLIA, MS VORTAC	2000
MAGNOLIA, MS VORTAC	MERIDIAN, MS VORTAC	2500
§ 95.6062 VOR Federal Airway V62 Is Amended To Read in Part		
FLECK, TX FIX	GEENI, TX FIX	*4000
*3500—MOCA		

From	To	MEA
§ 95.6071 VOR Federal Airway V71 Is Amended To Read in Part		
*WRACK, LA FIX	NATCHEZ, MS VOR/DME	**3500
*4000—MRA		
**2200—MOCA		
**2200—GNSS MEA		
§ 95.6074 VOR Federal Airway V74 Is Amended To Read in Part		
GREENVILLE, MS VOR/DME	MAGNOLIA, MS VORTAC	2000
§ 95.6083 VOR Federal Airway V83 Is Amended To Read in Part		
GOSIP, CO FIX	PUEBLO, CO VORTAC	8700
§ 95.6121 VOR Federal Airway V121 Is Amended To Read in Part		
DOSEE, OR FIX	*VIDAS, OR FIX	
	NE BND	8000
	SW BND	6000
*9300—MCA VIDAS, OR FIX, NE BND		
VIDAS, OR FIX	*WHIFF, OR FIX	
	NE BND	**13000
	SW BND	**9000
*12000—MCA WHIFF, OR FIX, NE BND		
**7500—MOCA		
**8000—GNSS MEA		
WHIFF, OR FIX	SNOKY, OR FIX	*13000
*12300—MOCA		
§ 95.6198 VOR Federal Airway V198 Is Amended To Read in Part		
JUNCTION, TX VORTAC	SAN ANTONIO, TX VORTAC	4100
§ 95.6245 VOR Federal Airway V245 Is Amended To Read in Part		
NATCHEZ, MS VOR/DME	MAGNOLIA, MS VORTAC	3500
MAGNOLIA, MS VORTAC	BIGBEE, MS VORTAC	*5000
*2000—MOCA MAA—17500		
*3000—GNSS MEA		
§ 95.6417 VOR Federal Airway V417 Is Amended To Delete		
MONROE, LA VORTAC	*BOLTS, MS FIX	**5000
*3400—MRA		
**1900—MOCA		
BOLTS, MS FIX	JACKSON, MS VORTAC	2000
JACKSON, MS VORTAC	*FANEN, MS FIX	**3000
*3300—MRA		
**2000—MOCA		
FANEN, MS FIX	MERIDIAN, MS VORTAC	3000
§ 95.6427 VOR Federal Airway V427 Is Amended To Delete		
MONROE, LA VORTAC	*PECKS, MS FIX	**5000
*2800—MRA		
**1900—MOCA		
**2000—GNSS MEA		
PECKS, MS FIX	JACKSON, MS VORTAC	#2000
#JACKSON R–281 UNUSABLE BEYOND 40 NM		
§ 95.6500 VOR Federal Airway V500 Is Amended To Read in Part		
GLARA, OR FIX	HARZL, OR FIX	
	W BND	*7200
	E BND	*10000
*6700—MOCA		
*7000—GNSS MEA		
§ 95.6537 VOR Federal Airway V537 Is Amended To Delete		
GREENVILLE, FL VORTAC	MOULTRIE, GA VOR/DME	*5000
*1600—MOCA		
*2000—GNSS MEA		
MOULTRIE, GA VOR/DME	MACON, GA VORTAC	*3000

From	To	MEA
*2400—MOCA		
§ 95.6555 VOR Federal Airway V555 Is Amended To Delete		
MC COMB, MS VORTAC *3400—MRA	*BANDO, MS FIX	2100
BANDO, MS FIX	JACKSON, MS VORTAC	2000
JACKSON, MS VORTAC *3500—MRA	*VAHNS, MS FIX	2000
VAHNS, MS FIX	SIDON, MS VORTAC	2000
§ 95.6557 VOR Federal Airway V557 Is Amended To Delete		
MC COMB, MS VORTAC *4200—MRA	*BYRAM, MS FIX	2900
*BYRAM, MS FIX *4200—MRA	JACKSON, MS VORTAC	2900
JACKSON, MS VORTAC	SIDON, MS VORTAC	2000
§ 95.6611 VOR Federal Airway V611 Is Amended To Read in Part		
GOSIP, CO FIX	PUEBLO, CO VORTAC	8700
*LIMEX, CO FIX *10000—MRA	GILL, CO VOR/DME	7900
§ 95.6440 Alaska VOR Federal Airway V440 Is Amended To Read in Part		
CENTA, AK FIX *2000—MOCA #MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.	SALIS, AK FIX	#*9000

From	To	MEA	MAA
§ 95.7001 Jet Routes **§ 95.7004 Jet Route J4 Is Amended To Read in Part**			
BELCHER, LA VORTAC	MAGNOLIA, MS VORTAC	18000	45000
MAGNOLIA, MS VORTAC	MERIDIAN, MS VORTAC	18000	45000
§ 95.7020 Jet Route J20 Is Amended To Read in Part			
BELCHER, LA VORTAC	MAGNOLIA, MS VORTAC	18000	45000
MAGNOLIA, MS VORTAC	MERIDIAN, MS VORTAC	18000	45000

Airway Segment		Changeover Points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Point V198 Is Amended To Delete Changeover Point			
JUNCTION, TX VORTAC	SAN ANTONIO, TX VORTAC	51	JUNCTION
Alaska V440 Is Amended To Add Changeover Point			
YAKUTAT, AK VOR/DME	BIORKA ISLAND, AK VORTAC	108	YAKUTAT
BIORKA ISLAND, AK VORTAC	SANDSPIT, CA VOR/DME	134	BIORKA ISLAND

[FR Doc. 2013–17841 Filed 7–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1240

[Docket No. FDA–2013–N–0639]

Turtles Intrastate and Interstate Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations regarding the prohibition on the sale, or other commercial or public distribution, of viable turtle eggs and live turtles with a carapace length of less than 4 inches to remove procedures for destruction as FDA believes it is not necessary to routinely demand this destruction to achieve the purpose of the regulations. This action will reduce

the need for investigator training and the time for the care and humane destruction of these animals.

DATES: This rule is effective January 16, 2014. Submit either electronic or written comments by October 8, 2013. If FDA receives no significant adverse comments within the specified comment period, the Agency will publish a document confirming the effective date of the final rule in the **Federal Register** within 30 days after the comment period on this direct final rule ends. If timely significant adverse comments are received, the Agency will publish a document in the **Federal Register** withdrawing this direct final rule before its effective date.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2013–N–0639, by any of the following methods:

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 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 and Docket No. FDA–2013–N–0639 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional instructions 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.

FOR FURTHER INFORMATION CONTACT: Dillard Woody, Center for Veterinary Medicine (HFV–231), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9237, email: *Dillard.Woody@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA published regulations in 21 CFR 1240.62 on May 23, 1975 (40 FR 22543), that ban the sale and distribution of viable turtle eggs and turtles with a carapace length of less than 4 inches to stop the spread of turtle-associated salmonellosis in humans, especially in young children.

The regulations provide that viable turtle eggs and live turtles with a carapace length of less than 4 inches shall not be sold, held for sale, or offered for any other type of commercial or public distribution. The ban does not apply to such distribution for bona fide scientific, educational, or exhibitional purposes other than use as pets; to such distribution not in connection with a business; and to such distribution intended for export only. In addition, the turtle ban does not apply to marine turtles and their eggs.

The regulations further provide that any turtle eggs or live turtles with a carapace length of less than 4 inches that are held for sale or offered for any other type of commercial or public distribution in violation of the regulations shall be subject to destruction in a humane manner by or under the supervision of an officer or employee of FDA, in accordance with specified procedures. Once a written demand for destruction is served, the rule prohibits the selling, distributing, or otherwise disposing of the viable turtle eggs or live turtles in a manner other than destroying them under FDA supervision.

FDA is amending the regulations to remove the provisions making violative turtle eggs and live turtles routinely subject to destruction by or under the supervision of an officer or employee of FDA. FDA does not believe that it is necessary to routinely demand destruction of viable turtle eggs and live turtles with a carapace length of less than 4 inches. FDA believes that other activities will achieve the purpose of the regulations, which were enacted to prevent the spread of turtle-associated salmonellosis, especially to young children. These other alternatives include: Raising the turtles until the turtles achieve a carapace length of 4 inches or greater; donating the viable turtle eggs or live turtles to an entity that meets one of the bona fide scientific, educational, or exhibitional exemptions, as provided in the regulations; or exporting the turtles in compliance with all applicable laws.

Although FDA does not believe that it is necessary to routinely demand destruction of viable turtle eggs and live turtles with a carapace length of less than 4 inches, as provided for in the regulations, FDA recognizes that it has the authority and obligation to take appropriate measures to prevent the spread of communicable disease, especially in the face of widespread outbreaks or other public health emergencies. FDA retains the authority to destroy or order the destruction of viable turtle eggs or live turtles of any size under 21 CFR 1240.30, which provides that, ''[w]henever the Commissioner of Food and Drugs determines that the measures taken by health authorities of any State or possession (including political subdivision thereof) are insufficient to prevent the spread of any of the communicable diseases . . . he may take such measures to prevent such spread of the diseases as he deems reasonably necessary, including . . . destruction of animals or articles believed to be sources of infection.''

This direct final rule does not affect the ban on the sale of viable turtle eggs and live turtles with a carapace length of less than 4 inches. Those provisions of the regulations remain in effect. Violators are subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, for each violation, in accordance with section 368 of the Public Health Service Act (PHS Act) (42 U.S.C. 271).

II. Direct Final Rulemaking

FDA has determined that the subject of this rulemaking is suitable for a direct final rule. FDA is amending 21 CFR 1240.62 by removing the provisions making viable turtle eggs and live turtles with a carapace length of less than 4 inches that are held for sale or offered for any other type of commercial or public distribution in violation of the regulations routinely subject to destruction and the associated required procedures. This rule is intended to make noncontroversial changes to existing regulations. The Agency does not anticipate receiving any significant adverse comment on this rule.

Consistent with FDA's procedures on direct final rulemaking, we are publishing elsewhere in this issue of the **Federal Register** a companion proposed rule. The companion proposed rule and this direct final rule are substantively identical. The companion proposed rule provides the procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of any significant adverse comment. The comment period for this direct final rule runs concurrently with the comment period of the companion proposed rule. Any comments received in response to the

companion proposed rule will also be considered as comments regarding this direct final rule.

FDA is providing a comment period for the direct final rule of 75 days after the date of publication in the **Federal Register**. If FDA receives a significant adverse comment, we intend to withdraw this direct final rule before its effective date by publication of a notice in the **Federal Register** within 30 days after the comment period ends. A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants withdrawing a direct final rule, the Agency will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553).

Comments that are frivolous, insubstantial, or outside the scope of the direct final rule will not be considered significant or adverse under this procedure. For example, a comment recommending a regulation change in addition to those in the rule would not be considered a significant adverse comment unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to an amendment, paragraph, or section of this rule and that provision can be severed from the remainder of the rule, FDA may adopt as final those provisions of the rule that are not the subject of a significant adverse comment.

If FDA does not receive significant adverse comment in response to the direct final rule, the Agency will publish a document in the **Federal Register** confirming the effective date of the final rule. The Agency intends to make the direct final rule effective 30 days after publication of the confirmation document in the **Federal Register**.

A full description of FDA's policy on direct final rule procedures may be found in a guidance document published in the **Federal Register** of November 21, 1997 (62 FR 62466). The guidance document may be accessed at *http://www.fda.gov/RegulatoryInformation/Guidances/ucm125166.htm.*

III. Legal Authority

FDA is issuing this direct final rule under the public health provisions of the PHS Act. Section 361 of the PHS Act (42 U.S.C. 264) allows the Secretary of the Department of Health and Human Services to make and enforce regulations that are necessary ''to prevent the introduction, transmission, or spread of communicable diseases.''

IV. Environmental Impact

FDA has determined under 21 CFR 25.32(g) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Regulatory Impact Analysis

FDA has examined the impacts of the direct final 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). The Agency believes that this direct final rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This direct final rule would not affect the ban on the sale of viable turtle eggs and live turtles with a carapace length of less than 4 inches. Since it would allow for, but not require, a change in the disposition of any seized turtles or eggs, it would not impose any additional compliance costs. Further, it may result in a small savings to the Agency from reduced investigator training for the care and humane destruction of these animals. The Agency certifies that the direct final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 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 $141 million, using the most current (2012) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this direct final rule to result in any 1-year expenditure that would meet or exceed this amount.

VI. Federalism

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

VII. Paperwork Reduction Act of 1995

This direct final rule contains no collection of information. Therefore, clearance by OMB under the Paperwork Reduction Act of 1995 is not required.

VIII. 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.*

List of Subjects in 21 CFR Part 1240

Communicable diseases, Public health, Travel restrictions, Water supply.

Therefore under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1240 is amended as follows:

PART 1240—CONTROL OF COMMUNICABLE DISEASES

■ 1. The authority citation for 21 CFR part 1240 continues to read as follows:

Authority: 42 U.S.C. 216, 243, 264, 271.

§ 1240.62 [Amended]

■ 2. In § 1240.62, remove paragraph (c) and redesignate paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

Dated: July 16, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–17751 Filed 7–24–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0651]

Drawbridge Operation Regulation; York River, Between Yorktown and Gloucester Point, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Coleman Memorial Bridge (US 17/ George P. Coleman Memorial Swing Bridge) across the York River, mile 7.0, between Gloucester Point and Yorktown, VA. This deviation is necessary to facilitate maintenance work on the moveable spans on the Coleman Memorial Bridge. This temporary deviation allows the drawbridge to remain in the closed to navigation position.

DATES: This deviation is effective from 7 a.m. on August 18, 2013 to 5 p.m. August 25, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0651] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Jim Rousseau, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6557, email *James.L.Rousseau2@uscg.mil*. If you have questions on reviewing the docket, call Barbara Hairston, Program Manager, Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Virginia Department of Transportation, who owns and operates this swing bridge, has requested a temporary deviation from the current operating regulation set out in 33 CFR 117.1025, to facilitate maintenance of the moveable spans on the structure.

Under the regular operating schedule, the Coleman Memorial Bridge, mile 7.0, between Gloucester Point and Yorktown, VA, opens on signal except from 5 a.m. to 8 a.m. and 3 p.m. to 7 p.m. Monday through Friday, except Federal holidays the bridge shall remain closed to navigation. The Coleman Memorial Bridge has vertical clearances in the closed position of 60 feet above mean high water.

Under this temporary deviation, the drawbridge will be closed to navigation from 7 a.m. to 5 p.m. on Sunday August 18, 2013; with an inclement weather date from 7 a.m. to 5 p.m. on Sunday August 25, 2013. The bridge will operate under normal operating schedule at all other times. Emergency openings cannot be provided. There are no alternate routes for vessels transiting this section of the York River. The York River is used by a variety of vessels including military, tugs, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with these waterway users.

Vessels able to pass under the bridge in the closed position may do so at anytime and are advised to proceed with caution. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass transiting this section of the York River but vessels may pass before 7 a.m. and after 5 p.m. The Coast Guard will also inform additional waterway users through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

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

Dated: July 12, 2013.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2013–17915 Filed 7–24–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0502; FRL–9838–1]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Disapproval of $PM_{2.5}$ Permitting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to disapprove a revision to Wisconsin's State Implementation Plan (SIP) submitted by the Wisconsin Department of Natural Resources (WDNR) on May 12, 2011. The revision concerns permitting requirements relating to particulate matter of less than 2.5 micrometers ($PM_{2.5}$). EPA is taking final action to disapprove the revisions because they do not meet the 2008 $PM_{2.5}$ SIP requirements. The proposed rulemaking was published December 18, 2012. During the comment period which ended on January 17, 2013, no comments were received.

DATES: This final rule is effective on August 26, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2011–0502. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding Federal holidays. We recommend that you telephone Andrea Morgan at (312) 353–6058 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andrea Morgan, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6058, *morgan.andrea@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. Background
II. Recent D.C. Circuit Decision
III. Revision to the Definition of Regulated Pollutant
IV. What action is EPA taking on this submittal?
V. Statutory and Executive Order Reviews

I. Background

This final rulemaking addresses the May 12, 2011, WDNR submittal, supplemented on March 5, 2012, revising the rules in the Wisconsin SIP to comply with the 2008 NSR Implementation Rule for $PM_{2.5}$. The original submission, and the supplement thereto, may be found in the docket for this action.

In May 2008, EPA finalized regulations to implement the New Source Review (NSR) Implementation Rule for $PM_{2.5}$ to include the major source threshold, significant emissions rate and offset ratios for $PM_{2.5}$, interpollutant trading for offsets and applicability of NSR to $PM_{2.5}$ precursors. On October 20, 2010, EPA amended the requirements for $PM_{2.5}$ under the Prevention of Significant Deterioration (PSD) program by adding maximum allowable increase in ambient pollutant concentrations and screening tools known as the Significant Impact Levels (SILs) and the Significant Monitoring Concentration (SMC) for $PM_{2.5}$.

Wisconsin's submittals included provisions that were designed to match the requirements set forth in the May 2008 and October 2010 rules. Wisconsin submitted revisions to its rules NR 400, 404, 405, 406, 407, 408, and 484 of the Wisconsin Administrative Code. The submittal included rules to define major source thresholds and significant emission increase levels; establish the SMC for $PM_{2.5}$; establish interpollutant trading ratios for $PM_{2.5}$, sulfur dioxide and nitrogen oxides; and clarify existing nonattainment area permitting rules. EPA announced through a memorandum, on July 21, 2011, a change in its policy concerning the development and adoption of interpollutant trading provisions for $PM_{2.5}$. The new policy requires that any ratio involving $PM_{2.5}$ precursors submitted to EPA for approval for use in a state's interpollutant offset program for $PM_{2.5}$ nonattainment areas must be accompanied by a technical demonstration that shows the net air quality benefits of such a ratio for the $PM_{2.5}$ nonattainment area in which it will be applied. In a letter dated March 5, 2012, WDNR requested to withdraw its request to have NR 408.06(1)(cm), the provision pertaining to interpollutant trading ratios, included in its 2011 submittal.

EPA published a proposed disapproval of Wisconsin's submittal on December 18, 2012, because the submittal did not meet the 2008 $PM_{2.5}$ SIP requirements. Specifically, the revisions submitted did not explicitly define the precursors of $PM_{2.5}$, nor did they contain the prescribed language to ensure that gases that condense to form particulate matter (PM), known as condensables, are regulated within $PM_{2.5}$ and PM of less than 10 micrometer (PM_{10}) emission limits. During the comment period EPA received no comments on the proposed action.

II. Recent D.C. Circuit Decision

On January 4, 2013, the U.S. Court of Appeals for the District of Columbia (D.C. Circuit or Court), in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (consolidated with 09–1102, 11–1430), remanded EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). The Court ordered EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion,'' as opposed to Subpart 1 of Part D, Title I, of the Clean Air Act (CAA). *Id.* at 437. Subpart 4 of Part D, Title I, of the CAA establishes additional provisions for PM nonattainment areas.

The 2008 implementation rule addressed by the Court decision, ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$),'' 73 FR 28321 (May 16, 2008), promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas (nonattainment NSR) and attainment/unclassifiable areas (PSD). As the requirements of subpart 4 pertain only to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the Court's opinion. Moreover, because EPA does not anticipate the need to revise any PSD requirements promulgated in the 2008 rule in order to comply with the Court's decision, EPA's disapproval of Wisconsin's submittal with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the decision.

Wisconsin's submission did include several provisions based on the nonattainment NSR requirements promulgated in the 2008 implementation rule. Since the proposed disapproval of Wisconsin's submittal predated the D.C. Circuit's decision, EPA did not include the nonattainment NSR provisions in the bases for disapproval. However, for any future nonattainment NSR submissions, WDNR should follow the Court's direction to implement the $PM_{2.5}$ NAAQS consistent with subpart 4, which includes several provisions that affect the nonattainment NSR requirements in the 2008 rule. EPA expects to provide further guidance on this issue to assist the states with future submissions.

On January 22, 2013, the D.C. Circuit, in *Sierra Club* v. *EPA,* 705 F.3d 458, issued an order, *inter alia,* vacating the parts of two PSD regulations establishing a $PM_{2.5}$ SMC (40 CFR 51.166(i)(5)(i)(*c*) and 40 CFR 52.21(i)(5)(i)(*c*)), finding that EPA was precluded from using the $PM_{2.5}$ SMCs to exempt permit applicants from the statutory requirement to compile preconstruction monitoring data.

Wisconsin included provisions for a $PM_{2.5}$ SMC in its submittal. Because the proposed disapproval of December 18, 2012, predated D.C. Circuit's January 22, 2013, remand, EPA did not include the $PM_{2.5}$ SMC as part of the basis for disapproval. However, as a result of the Court's decision, it is clear that EPA cannot approve any reference to the $PM_{2.5}$ SMC in the State's PSD SIP.

III. Revision to the Definition of Regulated Pollutant

In an October 25, 2012, final rule EPA revised the definition of ''regulated NSR pollutant'' to correct an inadvertent error contained in the regulations for PSD at 40 CFR 51.166(b)(49)(vi) and 52.21 (77 FR 65107). The October 2012 final action removed an unintended new requirement on state and local agencies and the regulated community that PM emissions must generally include the condensable PM fraction. PM_{10} and $PM_{2.5}$ remain regulated as criteria pollutants and emissions of both of these PM indicators are still required to include the condensable fraction of PM emitted by a source in applicability determinations and in establishing enforceable emissions limitations. The October 2012 final rule became effective December 24, 2012.

In the proposed disapproval of Wisconsin's $PM_{2.5}$ permitting requirements, which preceded the effective date of the revised condensables definition, EPA cited to the prior definition of ''regulated NSR pollutant,'' which included the requirement to consider the condensable fraction for ''PM emissions,'' as well as the condensable

fraction for $PM_{2.5}$ and PM_{10} emissions. The revised definition reads, ''$PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures.'' While this definition is less stringent than what was cited in the proposed disapproval of Wisconsin's revisions, because it no longer requires the inclusion of condensables for PM, it does not affect the bases for disapproval of the revisions, because the requirements to account for the condensable fraction of $PM_{2.5}$ and PM_{10} emissions in permitting decisions remain.

The October 2012 final rule also reorganized the placement of the definition of ''regulated NSR pollutant.'' The provision of the 2008 $PM_{2.5}$ NSR Implementation Rule that requires condensables be accounted for in $PM_{2.5}$ and PM_{10} permitting decisions is now codified in 40 CFR 51.166(b)(49)(i)(a) and 52.21(b)(50)(i)(a).

IV. What action Is EPA taking on this submittal?

EPA is taking final action to disapprove the revisions to Wisconsin rules NR 400, 404, 405, 406, 407, 408 and 484, submitted by the State on May 12, 2011, for approval into the SIP. The rule revisions submitted are not consistent with Federal regulations governing state permitting programs. *See* the December 18, 2012, proposed rule.

Under section 179(a) of the CAA, final disapproval of a submission that addresses a requirement of a part D plan (section 171—193 of the CAA), or is required in response to a finding of substantial inadequacy as described in section 110(k)(5), starts a sanction clock. The submission that EPA is taking final action to disapprove was not submitted to meet either of these requirements. Therefore, with the final action to disapprove these submissions, no sanctions under section 179 will be triggered.

The full or partial disapproval of a SIP revision triggers the requirement under section 110(c) of the CAA that EPA promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the disapproval unless the state corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP. However, since elements of this SIP revision were narrowly disapproved under the Infrastructure SIP, the two year timeframe began with the final narrow disapproval of Wisconsin's Infrastructure SIP (October 29, 2012; 77 FR 65478). EPA will actively work with Wisconsin to incorporate changes to its PSD program that explicitly identify $PM_{2.5}$ precursors and account for the condensable fraction of $PM_{2.5}$ and PM_{10} emissions in establishing enforceable permit emissions limits, consistent with the 2008 NSR Rule. In the interim, EPA expects WDNR to adhere to the associated requirements of the 2008 NSR Rule in its PSD program, specifically with respect to the explicit identification of $PM_{2.5}$ precursors, and accounting for the condensable fraction of $PM_{2.5}$ and PM_{10} emissions in applicability determinations and enforceable permit emissions limits.

V. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

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.

Paperwork Reduction Act

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.*).

Regulatory Flexibility Act

This action merely disapproves state law as not meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule 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.*).

Unfunded Mandates Reform Act

Because this rule disapproves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13132: Federalism

This action also 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 action merely disapproves a state rule, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also 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 (59 FR 22951, November 9, 2000).

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule also 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 disapproves a state rule.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

National Technology Transfer Advancement Act

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal

executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this action. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the CAA. Accordingly, this action merely disapproves certain state requirements for inclusion into the SIP under section 110 and subchapter I, part D of the CAA and will not in-and-of itself create any new requirements. Accordingly, it 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.

Congressional Review Act

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 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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

List of Subjects in 40 CFR Part 52

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

Dated: July 10, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart P—Indiana

■ 2. Section 52.2592 is added to read as follows:

§ 52.2592 Review of new sources and modifications.

Disapproval—On May 12, 2011, the Wisconsin Department of Natural Resources submitted a proposed revision to its State Implementation Plan to update its rules to match the 2008 New Source Review Implementation Rule for $PM_{2.5}$. The State supplemented the submittal on March 5, 2012. EPA determined that this submittal was not approvable because the revisions did not explicitly identify the precursors to $PM_{2.5}$ and did not contain the prescribed language to ensure that gases that condense to form PM, known as condensables, are regulated within $PM_{2.5}$ and PM_{10} emission limits.

[FR Doc. 2013–17837 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV104–6042; FRL–9828–8]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: EPA is updating the materials that are incorporated by reference (IBR) into the West Virginia State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the West Virginia Department of Environmental Protection (WV DEP) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

DATES: This action is effective July 25, 2013.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW., Room Number 3334, EPA West Building, Washington, DC 20460; 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.*

FOR FURTHER INFORMATION CONTACT: Sharon McCauley, (215) 814–3376 or by email at *mccauley.sharon@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On February 10, 2005 (70 FR 7024), EPA published a **Federal Register** beginning the new IBR procedure for West Virginia. On February 28, 2007 (72 FR 8903) February 10, 2009 (74 FR 6542), and December 28, 2010 (75 FR 81474), EPA published updates to the IBR material for West Virginia.

Since the publication of the last IBR update, EPA has approved into the SIP the following regulatory changes to the following West Virginia regulations:

A. Added Regulations

1. 45 CSR 35 (Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity)), 45 CSR 35–5 (Inconsistency Between Rules).

B. Revised Regulations

1. 45 CSR 8 (Ambient Air Quality Standards), sections 45–8–1 through 45–8–4.

2. 45 CSR 14 (Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration), sections 45–14–1 through 45–14–26.

3. 45 CSR 35 (Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity)), sections 45–35–1 through 45–35–4.

C. Removed Regulations

1. 45 CSR 8, sections 45–8–5 through 45–8–7.

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of April 1, 2013. EPA is also correcting the entries in the ''State Citation'' column for Regulation 45 CSR 8 (Ambient Air Quality Standards) to read ''Section 45–8–1,'' ''Section 45–8–2,'' ''Section 45–8–3,'' and ''Section 45–8–4.''

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

III. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the West Virginia SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for West Virginia.

List of Subjects in 40 CFR Part 52

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

Dated: June 5, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. Section 52.2520 is amended by:

■ a. Revising paragraph (b);

■ b. Revising the heading of paragraph (c); and

■ c. In paragraph (c) revising each entry under 45 CSR 8 (Ambient Air Quality Standards).

The revised text read as follows:

§ 52.2520 Identification of plan.

* * * * *

(b) *Incorporation by reference.*

(1) Material listed as incorporated by reference in paragraphs (c) and (d) of this section with an EPA approved date of April 1, 2013 was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material incorporated is as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after April 1, 2013 will be incorporated by reference in the next update to the SIP compilation.

(2)(i) EPA Region III certifies that the rules and regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules and regulations which have been approved as part of the State implementation plan as of April 1, 2013.

(ii) EPA Region III certifies that the following source-specific requirements provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State source-specific requirements which have been approved as part of the State implementation plan as of November 1, 2010. No additional revisions were made between November 1, 2010 and April 1, 2013.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103. For further information, call (215) 814–2108; the EPA, Air and Radiation Docket and Information Center, Room Number 3334, EPA West Building, 1301 Constitution Avenue NW., Washington, DC 20460. For further information, call (202) 566–1742; 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.*

(c) *EPA-Approved Regulations and Statutes.*

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.2565
*	*	*	*	*
[45 CSR] Series 8 Ambient Air Quality Standards				
Section 45–8–1	General	6/1/12	10/29/12, 77 FR 65493	Filing and effective dates are revised.
Section 45–8–2	Definitions	6/1/12	10/29/12, 77 FR 65493	
Section 45–8–3	Adoption of Standards	6/1/12	10/29/12, 77 FR 65493	Effective date is revised.
Section 45–8–4	Inconsistency Between Rules	6/1/12	10/29/12, 77 FR 65493	
*	*	*	*	*

* * * * *

[FR Doc. 2013–17836 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0894; FRL–9837–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve portions of a revision to the Tennessee State Implementation Plan (SIP), submitted by the Tennessee Department of Environment and Conservation (TDEC) through the Division of Air Pollution Control, to EPA on October 4, 2012, for parallel processing. TDEC submitted the final version of this SIP revision on May 10, 2013. The SIP revision approved in this action modifies Tennessee's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program to adopt, into the Tennessee SIP, federal regulatory requirements regarding PSD increments for fine particles with an aerodynamic diameter of less than or equal to 2.5 micrometers. EPA is approving portions of Tennessee's May 10, 2013, SIP revision because the Agency has made the determination that these portions of the SIP revision are in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting.

DATES: This rule will be effective August 26, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0894. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. *EPA* requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Tennessee SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov.* For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9241; email address: *adams.yolanda@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. This Action
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I. Background

On October 4, 2012, TDEC submitted a draft SIP revision for parallel processing. The October 4, 2012, draft SIP revision changes Tennessee's Air Quality Regulations, Chapter 1200–03–09—*Construction and Operating Permits,* Rule Number .01—Construction Permits, to adopt PSD requirements related to the implementation of the $PM_{2.5}$ NAAQS as promulgated in the rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC),'' Final Rule, 75 FR 64864 (October 20, 2010) (hereafter referred to as the ''$PM_{2.5}$ PSD Increments-SILs-SMC Rule''). TDEC submitted its final SIP revision to EPA on May 10, 2013.

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

On April 22, 2013, EPA proposed to approve, through parallel processing, Tennessee's draft October 4, 2012, SIP revision to address the $PM_{2.5}$ increment requirements.[1] EPA's April 22, 2013, proposed rulemaking was contingent upon Tennessee providing a final SIP revision that was substantively the same as their October 4, 2012, draft SIP revision. *See* 78 FR 23704. Comments on EPA's April 22, 2013, proposed rulemaking were due on or before May 22, 2013. EPA received no comments adverse or otherwise. TDEC submitted the final version of its SIP revision on May 10, 2013. Tennessee's October 4, 2012, May 10, 2013, and February 26, 2013, submissions are provided in the docket for today's final action (Docket ID: EPA–R04–OAR–2012–0894). The SIP submittal changes are briefly summarized below. Please refer to EPA's April 22, 2013, proposed rulemaking for more detailed information regarding the state's submission as well as the Agency's rationale for today's final rulemaking.

Tennessee's May 10, 2013, final SIP revision reflects two changes from the State's October 4, 2012, draft submittal. These two changes, made by TDEC at EPA's request, were needed to make Tennessee's rule consistent with EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule. As EPA explained in the April 22, 2013, proposed rulemaking, Tennessee inadvertently omitted from the October 4, 2012, draft submission certain provisions established in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule including: (1) The Class I variances for $PM_{2.5}$ increments at 1200–03–09–.01(4)(n)3, and the administrative change to replace the term ''*particulate matter''* with ''$PM_{2.5}$, PM_{10}''[2] (consistent with federal rule at 40 CFR 51.166(c) and (p)(5)); and (2) the administrative changes to the definition of ''*baseline date''* at 1200–03–09–.01(4)(b)15(i) and (ii)(I) to replace the term ''*particulate matter''* with ''PM_{10}.'' In the April 22, 2013, proposed rulemaking, EPA explained that TDEC had committed to addressing these inadvertent omissions in the final SIP submission. *See* 78 FR at 23708. Tennessee's May 10, 2013, final SIP revision addressed the provisions for $PM_{2.5}$ Increments for Class I variances and changes to the definition of ''*baseline date''* in accordance with the October 20, 2010 rule and to appropriately implement the PSD increments for the $PM_{2.5}$ NAAQS.

Additionally, Tennessee's May 10, 2013, final SIP submission cover letter requested that EPA not take action to approve into Tennessee's SIP the portions of the state rule that establish $PM_{2.5}$ SILs (at 1200–03–09–.01(5)(b)1(xix)) and SMCs (at 1200–03–09–.01(4)(d)6(i)(III)).[3] Tennessee made this request to be consistent with a D.C. Circuit court decision that occurred as the State was going through its rulemaking process. *See Sierra Club* v. *EPA,* 705 F.3d 458 (D.C. Cir. 2013).[4] As requested by the State of Tennessee, EPA is not taking final action in this rulemaking on the portions of the May 10, 2013, SIP submittal related to the $PM_{2.5}$ SILs and SMC thresholds as promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule. Besides the abovementioned changes, there were no significant differences between Tennessee's October 4, 2012, draft SIP revision, and the State's May 10, 2013, final SIP revision to adopt the $PM_{2.5}$ PSD increments.

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

The $PM_{2.5}$ PSD Increment-SILs-SMC Rule provided additional regulatory provisions under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for NSR including: (1) $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) SILs used as a screening tool (by a major source subject

[1] EPA's April 22, 2013, proposed rulemaking stated that as a result of the January 22, 2013, D.C. Circuit decision to vacate and remand the $PM_{2.5}$ SILs and vacate the $PM_{2.5}$ SMCs as well as consultations with EPA Region 4, TDEC would request in their final SIP submission that EPA not take action to approve into the Tennessee SIP the $PM_{2.5}$ SILs and SMC. *See* 78 FR 23704.

[2] PM_{10} means particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers in diameter.

[3] EPA's April 22, 2013, proposed rulemaking stated that as a result of the January 22, 2013, D.C. Circuit decision to vacate and remand the $PM_{2.5}$ SILs and vacate the $PM_{2.5}$ SMCs as well as consultations with EPA Region 4, TDEC would request in their final SIP submission (to adopt permitting provisions promulgated in the $PM_{2.5}$ Increments-SILs-SMC Rule) that EPA not take action to approve into the Tennessee SIP the $PM_{2.5}$ SILs and SMC. *See* 78 FR 23704.

[4] The Sierra Club challenged EPA's authority to implement the $PM_{2.5}$ SILs and SMC for PSD purposes as promulgated in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule. *See Sierra Club* v. *EPA,* 705 F.3d 458 (D.C. Cir. 2013). On January 22, 2013, the court issued an order vacating and remanding to EPA for further consideration the portions of its $PM_{2.5}$ PSD Increment-SILs-SMC Rule addressing the $PM_{2.5}$ SILs, except for the parts codifying the $PM_{2.5}$SILs in the NSR rule at 40 CFR 51.165(b)(2). The court also vacated parts of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule establishing the $PM_{2.5}$ SMC, finding that the Agency had exceeded its statutory authority with respect to these provisions. The D.C. Circuit Court's decision can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0894.

to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) a SMC, (also a screening tool) used by a major source subject to PSD to determine the subsequent level of $PM_{2.5}$ data gathering required for a PSD permit application. PSD increments prevent air quality in attainment/unclassifiable areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate ''significant deterioration'' [5] of air quality for a pollutant in an area.

Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.'' When a source applies for a permit to emit a regulated pollutant in an area that meets the NAAQS, the state and EPA must determine if emissions of the regulated pollutant from the source will cause significant deterioration in air quality. As described in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical PSD increments for $PM_{2.5}$ as a new pollutant[6] for which NAAQS were established after August 7, 1977,[7] and derived 24-hour and annual $PM_{2.5}$ increments for the three area classifications (Class I, II and III) using the ''contingent safe harbor'' approach. *See* 75 FR 64869 and the ambient air increment tables at 40 CFR 51.166(c)(1) and 52.21(c). In addition to PSD increments for the $PM_{2.5}$ NAAQS, the $PM_{2.5}$ PSD Increment-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for ''*major source baseline date''* and ''*minor source baseline date''* (including trigger date) to establish the $PM_{2.5}$ NAAQS specific dates associated with the implementation of $PM_{2.5}$ PSD increments. *See* 75 FR 64864. As mentioned above, due to the January 22, 2013, D.C. Circuit court decision, TDEC requested in its May 10, 2013, final SIP submission that EPA not take action to approve the $PM_{2.5}$ SILs and SMC screening tools [8] into the Tennessee SIP.

B. Condensable PM Correction

Tennessee's February 26, 2013, submission removes the term ''*particulate matter emissions''* from Tennessee's state law definition of ''*regulated NSR pollutant.''* As explained above, Tennessee made this rule change to be consistent with EPA's October 25, 2012, final Condensable PM Correction Rule, which revised the definition of ''*regulated NSR pollutant*'' [9] to remove an inadvertent requirement promulgated in the May 16, 2008 NSR $PM_{2.5}$ Rule.[10] Specifically, the NSR $PM_{2.5}$ Rule inadvertently established that measurement of condensable ''*particulate matter emissions*'' [11] must be included as part of the measurement and regulation of particulate matter. *See* 77 FR 15656. However, EPA's final Condensable PM Correction Rule removed this inadvertent requirement from the definition of ''*regulated NSR pollutant.''* *See* 77 FR 65107. EPA interprets Tennessee's February 26, 2013, submittal as superseding the portion of Tennessee's July 29, 2011,[12] SIP submittal that included the term ''*particulate matter emissions*'' in the definition of ''*regulated NSR pollutant.*'' As such, there is no longer a SIP submittal to include the term ''*particulate matter emissions*'' in the definition of ''*regulated NSR pollutant*'' before the Agency, and thus, no further action is required as the provision was never approved into the SIP—EPA is simply pointing out this issue for clarification purposes.

II. This Action

In this rulemaking, EPA is taking final action to approve portions of Tennessee's May 10, 2013, final SIP revision to adopt the $PM_{2.5}$ PSD increments promulgated in the October 20, 2010, $PM_{2.5}$ Increment-SILs-SMC Rule (pursuant to section 166(a) of the CAA and codified at 40 CFR 51.166) into the Tennessee SIP at Chapter 1200–03–09 [13] including: (1) The $PM_{2.5}$ PSD increments at TDEC's ambient air increments table Rule 1200–.03–09–.01(4)(f); (2) revisions to the definition of ''*baseline date*'' at Rule 1200–03–09–.01(4)(b)15 to establish the $PM_{2.5}$ ''*major source baseline date*'' (consistent with 40 CFR 51.166(b)(14)(i)(a) and (c)) and to establish the $PM_{2.5}$ ''trigger date'' used for determining the ''*minor source baseline date*'' (consistent with 40 CFR 51.166(b)(14)(ii)(c)); and, (3) a revision to the definition of ''*baseline area*'' at Rule 1200–03–09–.01(4)(b)14 to specify pollutant air quality impact annual averages (consistent with 40 CFR 51.166(b)(15)(i) and (ii)). In addition, as discussed in EPA's April 22, 2013 proposal, TDEC's October 4, 2012, parallel processing submission did not update the state's Class I variances (at Rule 1200–03–09–.01(4)(n)3) to include the $PM_{2.5}$ increments or administrative

[5] Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the ''maximum allowable increase'' of an air pollutant allowed to occur above the applicable baseline concentration for that pollutant. Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the air quality at the time of the first application for a PSD permit in the area.

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

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

[8] In the October 20, 2010, final rulemaking EPA explained that the SILs and SMCs are not required by the Act as part of an approvable SIP program; therefore states are not under any SIP-related deadline for revising their PSD programs to add these screening tools. *See* 75 FR 64864, 64900.

[9] The final rulemaking revised the definition of *regulated NSR pollutant* at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(vi) and part 51, appendix S (''Emissions Offset Interpretative Ruling'').

[10] The NSR $PM_{2.5}$ Rule entitled ''Implementation of the New Source Review Program for Particulate Matter Less than 2.5 Micrometers,'' Final Rule, 73 FR 28321 (May 16, 2008) revised the federal NSR program requirements at 40 CFR 51.166, 51.165, 52.21 and ''Emissions Offset Interpretative Ruling'' (40 CFR part 51, appendix S) to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas.

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

[12] Tennessee's July 29, 2011, SIP revision adopted NSR permitting requirements promulgated in the May 16, 2008, NSR $PM_{2.5}$ Rule including the requirement to consider condensable PM for PSD applicability. As a result of EPA's then March 16, 2012 (77 FR 15656), proposed Condensable PM Correction Rule Tennessee submitted a letter to EPA on May 1, 2012, requesting that EPA not approve into the Tennessee SIP the term ''*particulate matter emissions*'' (at rule 1200–03–09-.01(4)(b)47(vi)) as part of the definition for ''*regulated NSR pollutant.*'' Consistent with this request, EPA took final action to approve Tennessee's July 29, 2011, NSR $PM_{2.5}$ Rule SIP revision on July 30, 2012, excluding the term ''*particulate matter emissions,*'' and at the time did not act on the portion of Tennessee's revised ''*regulated NSR pollutant*'' definition as requested by the State. *See* 77 FR 44481.

[13] Tennessee currently has a SIP-approved NSR program for new and modified stationary sources. TDEC's PSD preconstruction rules are found at Air Quality Regulations, Chapter 1200–03–09—*Construction and Operating Permits,* Rule Number .01—Construction Permits and apply to major stationary sources or modifications constructed in areas designated attainment areas or unclassifiable/attainment areas as required under part C of title I of the CAA with respect to the NAAQS.

amendments to the definition of ''*baseline area*'' (at Rule 1200–03–09–.01(4)(b)15(i) and (ii)(I)) established in the October 20, 2010, rule and codified at 40 CFR 51.166. *See* 77 FR 68279. Tennessee's May 10, 2013, final submission adopting the $PM_{2.5}$ PSD increments addresses the two abovementioned provisions to be consistent with the PSD increments portion of the $PM_{2.5}$ Increments-SILs-SMC Rule. These changes provide for the implementation of the $PM_{2.5}$ PSD increments for the $PM_{2.5}$ NAAQS in the State's PSD program and became state effective on April 24, 2013.

Pursuant to section 110 of the CAA, EPA is approving portions of Tennessee's May 10, 2013, SIP revision to address $PM_{2.5}$ PSD increments. In EPA's April 22, 2013, proposed rulemaking, EPA proposed not to approve into the Tennessee SIP the $PM_{2.5}$ SILs and SMC as a result of the January 22, 2013, D.C. Circuit Court's decision. As requested in TDEC's May 10, 2013, SIP submission, EPA is not taking final action at this time on any portions of Tennessee's PSD SIP submission regarding the $PM_{2.5}$ SILs and SMC provisions as codified at 40 CFR 51.166 and 52.21.

III. Final Action

EPA is taking final action to approve portions of Tennessee's May 10, 2013, SIP revision to adopt only the $PM_{2.5}$ increments as amended in the October 20, 2010, $PM_{2.5}$ PSD Increments-SILs-SMC Rule. EPA has made the determination that these portions of Tennessee's SIP revision are approvable because they are in accordance with section 110 of the CAA and EPA regulations regarding NSR permitting.

IV. Statutory and Executive Order Reviews

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

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

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 12, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart RR—Tennessee

■ 2. In Section 52.2220, Table 1 in paragraph (c) is amended by revising the entry for Section 1200–3–9-.01 ''Definitions'' to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

TABLE 1–EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
CHAPTER 1200–3–9 CONSTRUCTION AND OPERATING PERMITS				
Section 1200–3–9-.01	Definitions ...	4/24/2013	7/25/2013 [Insert citation of publication].	7/25/2013 [Insert citation of publication]—EPA is approving Tennessee's May 10, 2013, SIP revision to Chapter 1200–3–9-.01 with the exception of the $PM_{2.5}$ SILs (at 1200–3–9–.01(5)(b)1(xix)) and SMC (at 1200–3–9–.01(4)(d)6(i)(III)) as promulgated in the October 20, 2010, $PM_{2.5}$ Increments-SILs-SMC Rule. February 7, 2012 (77 FR 6016)—EPA is approving Tennessee's May 28, 2009, SIP revisions to Chapter 1200–3–9–.01 with the exception of the "baseline actual emissions" calculation revision found at 1200–3–9–.01(4)(b)45(i)(III), (4)(b)45(ii)(IV), (5)(b)1(xlvii)(I)(III) and (5)(b)1(xlvii)(II)(IV) of the submittal.
*	*	*	*	*

* * * * *

[FR Doc. 2013–17842 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0140; FRL- 9835–7]

Approval and Promulgation of Implementation Plans; North Carolina; Control Techniques Guidelines and Reasonably Available Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 1, 2013, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NC DENR), submitted to EPA a state implementation plan (SIP) revision to satisfy North Carolina's commitment associated with the conditional approval of its reasonably available control technology (RACT) requirements for volatile organic compound (VOC) sources located in the North Carolina portion of the Charlotte—Gastonia—Rock Hill, North Carolina—South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the ''bi-state Charlotte Area''). The NC DENR May 1, 2013, SIP revision also includes additional changes to North Carolina's RACT rules. EPA is taking final action to approve a number of these SIP changes to the State's RACT rules and to convert the existing conditional approval of VOC RACT provisions in the North Carolina SIP to a full approval under the Clean Air Act (CAA or Act). EPA has evaluated the changes to North Carolina's SIP, and has made the determination that those being approved through this action are consistent with statutory and regulatory requirements and EPA guidance.

DATES: *Effective Date:* This rule will be effective August 26, 2013

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2009–0140. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9029. Ms. Spann can also be reached via electronic mail at *spann.jane@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. This Action
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

On April 30, 2004, EPA designated the bi-state Charlotte Area as a moderate nonattainment area with respect to the 1997 8-hour ozone NAAQS.[1] *See* 69 FR 23858. The bi-state Charlotte Area for the 1997 8-hour ozone NAAQS includes six full counties and one partial county in North Carolina; and one partial county in South Carolina. The North Carolina portion of the bi-state Charlotte Area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell County which includes Davidson and Coddle Creek

[1] Portions of the bi-state Charlotte Area were previously designated as a moderate nonattainment area for the 1-hour ozone NAAQS. The Area was subsequently redesignated to attainment for the 1-hour ozone NAAQS, and a maintenance plan was approved into the North Carolina SIP. The original Charlotte-Gastonia, North Carolina 1-hour moderate ozone nonattainment area consisted of Mecklenburg and Gaston counties in North Carolina.

Townships.[2] The South Carolina portion of the bi-state Charlotte Area consists of the portion of York County that falls within the Rock Hill-Fort Mill Area Transportation Study Metropolitan Planning Organization Area. As a result of this moderate nonattainment designation, North Carolina and South Carolina were required to amend their SIPs for their respective portions of the bi-state Charlotte Area to satisfy the requirements of section 182 of the CAA. Today's action specifically addresses the North Carolina portion of the bi-state Charlotte Area for the 1997 8-hour ozone NAAQS. EPA approved the RACT requirements for the South Carolina portion of the bi-state Charlotte Area on November 28, 2011. *See* 76 FR 72844.

Section 172(c)(1) of the CAA requires SIPs to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable. RACT, a subset of RACM, relates specifically to stationary point sources. Section 182(b)(2) of the CAA requires states to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. The three parts of the section 182(b)(2) RACT requirements are: (1) RACT for sources covered by an existing control techniques guideline (CTG) (i.e., a CTG issued prior to enactment of the 1990 amendments to the CAA); (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG (i.e., non-CTG sources). Pursuant to 40 CFR 51.165, a major source for a moderate ozone area is a source that emits 100 tons per year (tpy) or more of VOC or NO_X. [3] [4] If no major sources of VOC or NO_X emissions (each pollutant should be considered separately) in a particular source category exist in an applicable nonattainment area, a state may submit a negative declaration for that category.

On March 13, 2013, EPA proposed to approve in part, and conditionally approve in part, numerous SIP revisions provided by NC DENR to address NO_X and VOC RACT requirements. *See* 78 FR 15895. No comments were received on EPA's March 13, 2013, proposed rulemaking and on May 9, 2013, EPA took final action to approve, in part, and conditionally approve in part, North Carolina SIP revisions submitted on October 14, 2004, April 6, 2007, June 15, 2007, January 31, 2008, November 19, 2008, September 18, 2009, February 3, 2010, April 6, 2010, and November 9, 2010, to address NO_X RACT, VOC RACT and CTG requirements.

NC DENR submitted a SIP revision on May 1, 2013, to address deficiencies with the State's VOC RACT rules as identified in the EPA May 9, 2013, conditional approval of North Carolina VOC RACT rules 15A NCAC 02D.0902 (hereafter ''.0902''), 15A NCAC 02D.0909 (hereafter ''.0909''), 15A NCAC 02D.0951 (hereafter ''.0951''), 15A NCAC 02D.0961 (hereafter ''.0961'') and 15A NCAC 02D.0962 (hereafter ''.0962'').[5] North Carolina's May 1, 2013, SIP revision also included changes to rule 15A NCAC 02D.0903 (hereafter ''.0903'').[6] On June 7, 2013, EPA proposed to approve portions of North Carolina's May 1, 2013, SIP revision which included changes to the State's RACT rules to correct deficiencies and add new changes. *See* 78 FR 34306. EPA did not receive any comments, adverse or otherwise, on the June 7, 2013, proposed rulemaking related to North Carolina's May 1, 2013, SIP revision.

For more information regarding the RACT requirements, including requirements and schedules for sources covered by CTGs, see EPA's March 13, 2013, proposed rulemaking (78 FR 15895), the May 9, 2013, final rulemaking (78 FR 27065) and the June 7, 2013, proposed rulemaking related to this final action at 78 FR 34306.

II. This Action

EPA is approving portions of the May 1, 2013, SIP revision submitted to EPA by the State of North Carolina, through NC DENR, to address the NO_X RACT requirements for the North Carolina portion of the bi-state Charlotte Area. Specifically, EPA is approving the entirety of the May 1, 2013, SIP revision with the exception of the revisions related to section .0102. Because EPA is approving these revisions to the State's RACT rules, the Agency is also, through this action, converting the existing conditional approval of VOC RACT provisions in the North Carolina SIP to a full approval under the CAA. These SIP revisions, along with revisions approved on May 9, 2013, (78 FR 27065) establish the RACT requirements for the major sources located in the North Carolina portion of the bi-state Charlotte Area. In a separate rulemaking, EPA has already taken action on RACT and CTG requirements for the South Carolina portion of the bi-state Charlotte Area.

III. Final Action

EPA is taking final action to approve portions of the May 1, 2013, SIP revision to the State's RACT rules and converting the existing conditional approval of VOC RACT provisions in the North Carolina SIP to a full approval under the CAA. Together, this SIP revision, and those referenced in the May 9, 2013, (78 FR 27065) action establish the RACT requirements for the major sources located in the North Carolina portion of the bi-state Charlotte Area. EPA is taking final action on the May 1, 2013, SIP revision because it is consistent with the CAA and requirements related to VOC and NO_X RACT.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities

[2] Effective July 20, 2012, EPA designated one full county and six partial counties in the bi-state Charlotte area as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. Today's final rulemaking regarding RACT is not related to requirements for the 2008 8-hour ozone NAAQS.

[3] The emission threshold is based on an area's nonattainment designation classification. Section 182 of the CAA and 40 CFR 51.912 (b) define ''major source'' for ozone nonattainment areas to include sources which emit or which have the potential to emit 100 tpy or more of VOC or NO_X (ozone precursors) in areas classified as ''marginal'' or ''moderate,'' 50 tons per year (tpy) or more of these ozone precursors in areas classified as ''serious,'' 25 tpy or more of these ozone precursors in areas classified as ''severe,'' and 10 tpy or more of these ozone precursors in areas classified as ''extreme.'' The bi-state Charlotte Area for the 1997 8-hour ozone NAAQS is a moderate nonattainment area.

[4] Section 182(b)(2) also requires that all CTG source category sources, including those with less than 100 tpy emissions, meet RACT. CTG sources are addressed later in this document.

[5] Although published on May 9, 2013, EPA's conditional approval final action was signed on April 29, 2013, prior to the Agency's receipt of the May 1, 2013, North Carolina submission to address the State's conditional approval commitments.

[6] A change to rule 15A NCAC 02Q.0102 (hereafter ''.0102'') is also included in the May 1, 2013, SIP revision. In today's rulemaking, EPA is not taking action on North Carolina's changes to rule .0102. EPA will contemplate action on these changes in a separate action.

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 CAA; and

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

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: July 12, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

■ 2. Section 52.1770(c) Table 1, is amended under Subchapter 2D at section .0900 by revising the entries for ''Sect .0902,'' ''Sect .0903,'' ''Sect .0951,'' ''Sect .0961,'' ''Sect .0962,'' to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
*	*	*	*	*
Section .0900 Volatile Organic Compounds				
*	*	*	*	*
Sect .0902	Applicability	5/1/2013	7/25/13, [Insert citation of publication].	This approval does not include the start-up shutdown language as described in Section II.A.a. of EPA's 3/13/2013 proposed rule (78 FR 15895).
Sect .0903	Recordkeeping: Reporting, Monitoring.	5/1/2013	7/25/13, [Insert citation of publication].	
*	*	*	*	*
Sect .0909	Compliance Schedules for Sources in Nonattainment Areas.	5/1/2013	7/25/13, [Insert citation of publication].	
*	*	*	*	*
Sect .0951	RACT for Sources of Volatile Organic Compounds.	5/1/2013	7/25/13, [Insert citation of publication].	

TABLE 1—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Sect .0961	Offset Lithographic Printing and Letterpress Printing.	5/1/2013	7/25/13, [Insert citation of publication].	
Sect .0962	Industrial Cleaning Solvents	5/1/2013	7/25/13, [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2013–17833 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10–90; DA 13–1113, FCC 13–73]

Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of six months, an information collection associated with the Commission's *Universal Service—Connect America Fund,* Report and Order, 78 FR 32991, June 3, 2013 and Report and Order, 78 FR 38227, June 26, 2013 (*Orders*). The Commission submitted new information collection requirements for review and approval by OMB, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), 78 FR 34097, June 6, 2013, which were approved by the OMB on July 9, 2013. This notice is consistent with the *Orders,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of new information collection requirements.

DATES: The rules associated with the Connect America Phase II challenge process published at 78 FR 32991, June 3, 2013 and 47 CFR 54.312(c)(4) through (6), 54.312(c)(8), and 54.313(b) published at 78 FR 38227, June 26, 2013, is effective July 25, 2013.

FOR FURTHER INFORMATION CONTACT: Ryan Yates, Wireline Competition Bureau at (202) 418–7400 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This document announces that, on July 9, 2013, OMB approved, for a period of six months, the information collection requirements contained in the Commission's *Orders,* DA 13–1113, published at 78 FR 32991, June 3, 2013 and FCC 13–73, published at 78 FR 38227, June 26, 2013. The OMB Control Number is 3060–1188. The Commission publishes this notice as an announcement of the effective date of the rules associated with the Connect America Phase II challenge process and 47 CFR 54.312(c)(4) through (c)(6), 54.312(c)(8) and 54.313(b). If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Judith B. Herman, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1188, in your correspondence. The Commission will also accept your comments via email please send them to *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on July 9, 2013, for the rules associated with the Connect America Phase II challenge process and the information collection requirements contained in the Commission's rules at 47 CFR 54.312(c)(4) through (c)(6), 54.312(c)(8) and 54.313(b). Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1188.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1188.

OMB Approval Date: July 9, 2013.

OMB Expiration Date: January 31, 2014.

Title: Connect America Challenge Process and Certifications, WC Docket No. 10–90.

Form No.: FCC Form 505.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents and Responses: 113 respondents; 113 responses.

Estimated Time per Response: 10 hours to 20 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirements.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections.

Total Annual Burden: 1,260 hours.

Total Annual Cost: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission. However, respondents may request materials or information submitted to the Commission or to the Administrator be withheld from public inspection under 47 CFR 0.459 of the Commission's rules. We note that USAC must preserve the confidentiality of all data obtained from respondents; must not use the data except for purposes of administering the universal service programs; and must not disclose data in

company-specific form unless directed to do so by the Commission.

Needs and Uses: In documents DA 13–1113 and FCC 13–73, the Commission proposed to collect information to determine what areas should be eligible for Phase II of Connect America Fund and to ensure that Connect America Fund Phase I deployment occur in areas that are eligible for support. This information will be used to determine the amount of, and eligibility for, high-cost universal service support received by incumbent and competitive eligible telecommunications carriers under the Connect America Fund. To aid in collecting this information regarding the Phase II challenge process in a uniform fashion, the Commission has created the new FCC Form 505, which parties should use in filing their Phase II challenges and responses with the FCC.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–17850 Filed 7–24–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 178

Specifications for Packagings

CFR Correction

■ In Title 49 of the Code of Federal Regulations, Parts 178 to 199, revised as of October 1, 2012, in § 178.68, on page 80, paragraph (i)(2) is correctly reinstated and on page 81, paragraph (l)(2) is revised to read as follows:

§ 178.68 Specification 4E welded aluminum cylinders.

* * * * *

(i) * * *

(2) If the weld is at midlength of the cylinder, the test may be made as specified in paragraph (i)(1) of this section or must be made between wedge shaped knife edges (60° angle) rounded to a ½ inch radius. There must be no evidence of cracking in the sample when it is flattened to no more than 6 times the wall thickness.

* * * * *

(l) * * *

(2) *Guided bend test.* A bend test specimen must be cut from the cylinder used for the physical test specified in paragraph (j) of this section. Specimen must be taken across the seam, must be a minimum of 1½ inches wide, edges must be parallel and rounded with a file, and back-up strip, if used, must be removed by machining. The specimen shall be tested as follows:

(i) The specimen must be bent to refusal in the guided bend test jig as illustrated in paragraph 6.10 of CGA C–3 (IBR, see § 171.7 of this subchapter). The root of the weld (inside surface of the cylinder) must be located away from the ram of the jig. The specimen must not show a crack or other open defect exceeding ⅛ inch in any direction upon completion of the test. Should this specimen fail to meet the requirements, specimens may be taken from each of 2 additional cylinders from the same lot and tested. If either of the latter specimens fails to meet requirements, the entire lot represented must be rejected.

(ii) Alternatively, the specimen may be tested in a guided bend test jig as illustrated in Figure 12.1 of The Aluminum Association's 2002 publication, ''Welding Aluminum: Theory and Practice.'' The root of the weld (inside surface of the cylinder) must be located away from the mandrel of the jig. No specimen must show a crack or other open defect exceeding ⅛ inch in any direction upon completion of the test. Should this specimen fail to meet the requirements, specimens may be taken from each of 2 additional cylinders from the same lot and tested. If either of the latter specimens fails to meet requirements, the entire lot represented must be rejected.

* * * * *

[FR Doc. 2013–18012 Filed 7–24–13; 8:45 am]

BILLING CODE 1505–01–D

Proposed Rules

Federal Register
Vol. 78, No. 143
Thursday, July 25, 2013

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–BT–PET–0038]

RIN 1904–AD05

Energy Conservation Program for Consumer Products: First Co. Petition for Reconsideration

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

ACTION: Petition for rulemaking; request for comments.

SUMMARY: The Department of Energy (DOE) received a petition from Howe, Anderson & Steyer, P.C., on behalf of First Co., requesting that DOE conduct a rulemaking to amend certification regulations applicable to residential central air conditioners and heat pumps (together ''CAC'') to: collect Energy Efficiency Rating (EER) information from manufacturers through the Compliance, Certification Management System (''CCMS'') as part of annual certification reporting requirements; and publish the information in DOE's Compliance Certification Database (''CCD''). As an interim measure prior to the completion of the rulemaking, they request that DOE collect EER information from manufacturers on an expedited and voluntary basis and publish EER information in the CCD. They contend that voluntary collection and publication of EER information on an interim basis is necessary to prevent harm to manufacturers and consumers. To the extent that the collection of EER information is subject to OMB approval under the Paperwork Reduction Act, they further request that DOE seek OMB authorization for ''emergency'' or expedited processing of DOE's request to collect EER information on a voluntary basis. DOE seeks comment on whether to grant the petition and proceed with a rulemaking on this matter.

DATES: Any comments must be received by DOE not later than August 26, 2013.

ADDRESSES: Comments must be submitted, identified by docket number EERE–BT–PET–0038, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email: FirstCoPetition 2013PET0038@ee.doe.gov.* Include either the docket number EERE–BT–PET –0038, and/or ''First Co. Petition'' in the subject line of the message.
3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Room 1J–018, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please submit one signed original paper copy.
4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Room 1J–018, 1000 Independence Avenue SW., Washington, DC 20585– 0121.
5. *Instructions:* All submissions received must include the agency name and docket number for this proceeding.

Docket: For access to the docket to read background documents, or comments received, go to the *Federal eRulemaking Portal* at *www.regulations.gov.* In addition, electronic copies of the Petition are available online at DOE's Web site at the following URL address: *http://www1.eere.energy.gov/buildings/appliance_standards/current_rulemakings-notices.html.*

FOR FURTHER INFORMATION CONTACT:
Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–6590, or *email: Ashley.Armstrong@ee.doe.gov.*
James Silvestro, U.S. Department of Energy, Office of General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4224, *email: James.Silvestro@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* provides among other things that, ''[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.'' 5 U.S.C. 553(e). DOE received a petition from Howe, Anderson & Steyer, P.C., on behalf of First Co., requesting that DOE conduct a rulemaking to amend certification regulations applicable to residential central air conditioners and heat pumps (together ''CAC'') under 10 CFR part 429, subpart B, to: (i) collect Energy Efficiency Rating (EER) information from manufacturers through the Compliance, Certification Management System (''CCMS'') as part of annual certification reporting requirements; and (ii) publish the information in DOE's Compliance Certification Database (''CCD'').

Manufacturers must certify, by means of an annual compliance statement and certification report, that each basic model CAC meets the applicable energy conservation standard. Under existing regulations, the annual reporting requirements include submission of various information by manufacturers, but not EER information. Under the direct final rule establishing regional energy conservation standards for CACs, the standard for CACs installed in the Southwestern Region includes a requirement for minimum EER. 76 FR 37408 (June 27, 2011). However, the direct final rule did not amend existing certification regulations to require manufacturers to supply EER information through CCMS. The petition states that collecting EER information enhances the existing certification reporting system and its ability to enforce applicable energy efficiency standards, including regional standards. The petition further states that collecting and publishing EER information also benefits consumers, contractors, engineers, architects, utilities, manufacturers and state agencies that use CCMS/CCD as the government source of manufacturer certified efficiency information. Finally, the petition states that because of regional standards, CCMS/CCD must include EER information to continue to be a valuable resource for users in the Southwestern Region.

As an interim measure prior to the completion of its requested rulemaking, the petition requests that DOE collect EER information from manufacturers on an expedited and voluntary basis and publish the EER information that is voluntarily submitted in the CCD. It contends that the voluntary collection and publication of EER information on an interim basis is necessary to prevent harm to manufacturers and consumers. The petition states that manufacturers

that rely on CCMS/CCD are likely to lose substantial business in the Southwestern Region until CCMS/CCD includes EER information, and that consumers will also suffer harm if they are unable to compare the EER of various models and potentially decide to purchase certain high-efficiency equipment that would better meet their needs. The petition notes that the potential harm to manufacturers and consumers can be averted by collecting information through CCMS on a voluntary basis and publishing it in CCD by January 2014.

To the extent that the collection of EER information is subject to OMB approval under the Paperwork Reduction Act, the petition further requests that DOE, pursuant to 5 CFR 1320.13, seek OMB authorization for ''emergency'' or expedited processing of DOE's request to collect EER information on a voluntary basis. It states that the voluntary collection of EER information under the emergency procedure would place no additional burden on manufacturers because they already have and maintain the EER information that is derived from the test required under existing certification and compliance regulations.

In promulgating this petition for public comment, DOE seeks public comment on whether to grant the petition and undertake a rulemaking to consider the proposals contained in the petition. By seeking such comment, DOE takes no position at this time on the merits of the suggested rulemaking.

Issued in Washington, DC on July 19, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary of Energy Efficiency, Energy Efficiency and Renewable Energy.

Set forth below is the full text of the First Co. petition.

May 13, 2013

Via email

John Cymbalsky, U.S. Department of Energy, Office of Building Technologies (EE–2J), 1000 Independence Ave. SW., Washington, DC 20585–0121

Re: Petition for Rulemaking and Expedited Processing of OMB Clearance

Dear Mr. Cymbalsky: On behalf of our client First Co., we request that the Department of Energy (''DOE'') conduct a rulemaking to amend certification regulations applicable to residential central air conditioners and heat pumps (together ''CAC'') under 10 CFR Part 429, Subpart B, to: (i) collect Energy Efficiency Rating (EER) information from manufacturers through the Compliance, Certification Management System (''CCMS'') as part of annual certification reporting requirements; and (ii) publish the EER information in DOE's Compliance Certification Database (''CCD'').

As an interim measure prior to the completion of the rulemaking, we request that DOE collect EER information from manufacturers on an expedited and voluntary basis and publish the EER information in CCD. Voluntary collection and publication of EER information on an interim basis is necessary to prevent harm to manufacturers and consumers as described below. To the extent that the collection of EER information is subject to OMB approval under the Paperwork Reduction Act, we further request that DOE, pursuant to 5 CFR § 1320.13, seek OMB authorization for ''emergency'' or expedited processing of DOE's request to collect EER information on a *voluntary* basis.

We respectfully request that these actions be undertaken as soon as possible in 2013.

Certification Reporting and Regional Standards

As you know, manufacturers must certify, by means of a compliance statement and certification report, that each basic model CAC meets the applicable energy conservation standard. Under existing regulations, the annual reporting requirements include submission of various information by manufacturers, but not EER information.

DOE published a direct final rule on June 27, 2011 establishing regional standards for various consumer products including CACs. Under the rule, while national standards for CACs remained 13 SEER, effective January 1, 2015, the standard for CACs installed in the Southeastern Region becomes 14 SEER and the standard for CACs installed in the Southwestern Region [1] becomes 14 SEER *and* 12.2 EER (for units installed with a rated cooling capacity less than 45,000 Btu/h)/11.7 EER (for units with a rated cooling capacity equal to or greater than 45,000 Btu/h.) The direct final rule did *not* amend existing certification regulations to require manufacturers to supply EER information through CCMS.

CCMS/CCD needs to include EER information. Collecting EER information enhances DOE's existing certification reporting system and its ability to enforce applicable energy efficiency standards, including regional standards. As DOE stated when it proposed enhanced certification reporting in a prior rulemaking, ''By requiring additional relevant data to be supplied in the certification report, DOE will be able to more effectively enforce compliance with the conservation standards. Additionally, the public would have information to use in evaluating the energy efficiency of a covered product or covered equipment.'' 75 FR 56798 (Sept. 16, 2010).

Collecting and publishing EER information also benefits consumers, contractors, engineers, architects, utilities, manufacturers and state agencies that use CCMS/CCD as the government source of manufacturer certified efficiency information. For example, CCMS/CCD may be used by (i) architects and engineers to verify energy efficiency ratings of equipment for installation in their projects; (ii) utilities to qualify equipment for rebates; and (iii) state agencies to verify compliance with state laws. Manufacturers, especially those that do not list their products in a voluntary industry directory, rely on CCMS/CCD as the official government source for energy efficiency information of their products. Because of regional standards, CCMS/CCD *must* include EER information to continue to be a valuable resource for users in the Southwestern Region.

Interim Collection of EER Information

The rulemaking requested by this petition is likely to extend well into 2014, even if commenced reasonably soon. DOE has made clear that regional standards are based on installation dates, so that CACs *installed* on or after January 1, 2015 in the Southeastern and Southwestern Regions must meet the new standards, including the EER standard in the Southwestern Region.

Residential projects, especially multi-family projects, require substantial lead times. Architects, engineers and builders often select HVAC systems for such projects up to 9–12 months in advance of the install date. In practical terms, this means that an architect or an engineer selecting CACs for a multi-family project in the Southwestern Region must be able to verify the SEER and EER of the unit *during the first quarter of 2014* for an install date in January, 2015. CCMS/CCD, therefore, needs to include EER information *by January 2014* in order to be an available resource for projects being ''spec'd'' for *installation in January 2015.*

In addition, the State of California has adopted new mandatory requirements for appliances including CACs. It is our understanding that under regulations promulgated by the California Energy Commission, effective January 1, 2014, energy efficiency ratings of CACs that exceed minimum federal standards (13 SEER) must be verified using data from an approved database or directory. Verification of both SEER and EER is required. CCMS/CCD is an approved directory under these regulations, but it cannot be used to verify ratings for higher efficiency CACs in California in 2014 *unless* it includes EER information.

Manufacturers that rely on CCMS/CCD are likely to lose substantial business in the Southwestern Region until CCMS/CCD includes EER information. The harm will be particularly great in California because of the new verification requirements for higher SEER/EER equipment. Consumers will also suffer harm if they are unable to purchase certain high efficiency equipment that would better meet their needs.

The potential harm to manufacturers and consumers can be averted by collecting EER information through CCMS on a voluntary basis and publishing it in CCD by January 2014. If adopted as an interim measure until the rulemaking is completed, the voluntary collection and publication of EER information could be accomplished quickly since manufacturers already have and maintain the EER information, which is derived from the ''A'' test required under existing certification and compliance regulations.

Request for Emergency OMB Approval Under PRA

The Paperwork Reduction Act imposes certain requirements on federal agencies

[1] The Southwestern Region contains the States of Arizona, California, Nevada and New Mexico.

before collecting data from the public. It is our understanding that before a federal agency can require or request information from the public, the agency must (1) seek public comment on the proposed collections, and (2) submit the proposed collections for review and approval by OMB. Based on published guidance from the Executive Branch, it appears that the regular review and approval process can take anywhere from 6–9 months from the date the process is initiated by the agency.

The rulemaking requested in this petition appears to involve the collection of information subject to PRA requirements. For the reasons stated above, however, a delay of up to 9 months after the initiation of the rulemaking will cause harm to manufacturers and consumers that can and must be avoided.

Under certain circumstances, an agency may obtain expedited or ''emergency'' OMB review of an information collection request. The regulations applicable to a request for emergency processing are set forth in 5 CFR § 1320.13 and state, in relevant part:

(a) Any such request shall be accompanied by a written determination that:

(1) The collection of information:

(i) Is needed prior to the expiration of time periods established under this Part; and

(ii) Is essential to the mission of the agency; and

(2) The agency cannot reasonably comply with the normal clearance procedures under this Part because:

(i) Public harm is reasonably likely to result if normal clearance procedures are followed; (or)

(ii) An unanticipated event has occurred;

. . .

The circumstances described in this petition meet the requirements for expedited emergency review. Collecting EER information is based on regional standards that include minimum EER standards for CACs installed in the Southwestern Region. Collection of EER information, therefore, is essential to DOE's ability to effectively enforce compliance with regional EER standards, and to provide complete information for the public to use in evaluating the energy efficiency of a covered product or covered equipment. [subsection (a)(1)(ii).]

EER information must be collected and published in CCMS/CCD before completion of normal clearance procedures or significant public harm to manufacturers and consumers is likely to result. [subsection (a) (1) (ii), and (2)(i).] In addition, the adoption of regulations by the California Energy Commission applicable to higher efficiency CACs installed on or after January 1, *2014* may be regarded as an unanticipated event in light of the January 1, *2015* effective date for regional standards under federal law. [subsection (a)(2)(ii)]. The voluntary collection of EER information under the emergency procedure would place no additional burden on manufacturers, because they already have and maintain the EER information which is derived from the ''A'' test required under existing certification and compliance regulations.

Very truly yours,

HOWE, ANDERSON & STEYER, P.C.

Richard A. Steyer

Attorney for First Co.

cc: Ashley Armstrong, DOE, Laura Barhydt, DOE, First Co.

[FR Doc. 2013–17894 Filed 7–24–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0381; Directorate Identifier 2013–NE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Turbomeca S.A. Arrius 2B1, 2B1A, 2B2, and 2K1 turboshaft engines. This proposed AD was prompted by in-flight shutdowns caused by interrupted fuel supply at the hydro-mechanical metering unit (HMU). This proposed AD would require initial and repetitive inspections of the HMU high pressure pump drive gear shaft splines, cleaning and inspections of the sleeve assembly splines, and replacement of the HMU if it fails inspection. We are proposing this AD to prevent in-flight shutdown and damage to the engine.

DATES: We must receive comments on this proposed AD by September 23, 2013.

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

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

For service information identified in this AD, contact Turbomeca, S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15. You may view this service information at the 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.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0381; Directorate Identifier 2013–NE–16–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may view the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2013–

0082, dated April 2, 2013, referred to hereinafter as ''the MCAI'', to correct an unsafe condition for the specified products. The MCAI states:

A number of in-flight shutdown occurrences have been reported for Arrius 2 engines. The results of the technical investigations concluded that these events were caused by deterioration of the splines on the high pressure (HP)/low pressure (LP) pump assembly drive shaft of the hydro-mechanical metering unit (HMU), which eventually interrupted the fuel supply to the engine.

This condition, if not detected and corrected, could lead to further cases of engine in-flight shutdown, possibly resulting in forced landing.

To address these occurrences, Turbomeca published Service Bulletin (SB) No. SB 319 73 2825, which provides inspection instructions. After that SB was issued, further similar occurrences prompted Turbomeca to perform a new assessment of the issue. As a result, it was determined that repetitive inspections of the HMU, including an additional inspection of the sleeve assembly, was necessary to address the issue. Those instructions are provided in Turbomeca Mandatory SB (MSB) No. SB 319 73 2825 version G.

For the reasons described above, this AD requires repetitive inspections of drive gear shaft splines of the HP pump, and depending on findings, accomplishment of applicable corrective actions.

You may obtain further information by examining the MCAI in the AD docket. We are proposing this AD to prevent in-flight shutdown and damage to the engine.

Relevant Service Information

Turbomeca S.A. has issued Mandatory Service Bulletin No. SB 319 73 2825, Version G, dated January 24, 2013. The service information describes procedures for correcting the unsafe condition described in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of France, and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require initial and repetitive inspections and cleaning of the HMU high pressure pump drive gear shaft splines, cleaning and inspections of the sleeve assembly splines, and replacement of the HMU if it fails inspection.

Costs of Compliance

We estimate that this proposed AD would affect 162 engines installed on helicopters of U.S. registry. We also estimate that it would take about one hour per engine to comply with this proposed AD. The average labor rate is $85 per hour. Required parts cost about $753 per engine. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $135,756.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Turbomeca S.A.: Docket No. FAA–2013–0381; Directorate Identifier 2013–NE–16–AD.

(a) Comments Due Date

We must receive comments by September 23, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Turbomeca S.A. Arrius 2B1, 2B1A, 2B2, and 2K1 turboshaft engines.

(d) Reason

This AD was prompted by in-flight shutdowns caused by interrupted fuel supply at the hydro-mechanical metering unit (HMU). We are issuing this AD to prevent in-flight shutdown and damage to the engine.

(e) Actions and Compliance

Unless already done, do the following actions.

(f) Initial Visual Inspection for HMUs Not Previously Inspected

(1) On the effective date of this AD, for those HMUs that have not previously been inspected per Turbomeca Mandatory Service Bulletin (MSB) No. SB 319 73 2825, Version G, dated January 24, 2013, or earlier versions; perform an initial visual inspection of HMU aft splines of the high pressure pump for wear, corrosion, scaling, or cracks, and clean and inspect the sleeve assembly splines for wear, corrosion, scaling, or cracks, at the following:

(i) For HMUs that have accumulated more than 150 operating hours (OHs) since new or since last overhaul, within 50 HMU OHs after effective date of this AD.

(ii) For HMUs that have accumulated 150 or fewer OHs since new or since last overhaul, before exceeding 200 HMU OHs.

(g) Initial Visual Inspection for HMUs That Have Been Previously Inspected

(1) On the effective date of this AD, for those HMUs that have been previously inspected per Turbomeca MSB No. SB 319 73 2825, Version G, dated January 24, 2013, or earlier versions; perform a visual inspection of HMU aft splines of the high pressure pump for wear, corrosion, scaling, or cracks, and clean and inspect the sleeve assembly splines for wear, corrosion, scaling, or cracks, at the following:

(i) For HMUs that have accumulated 300 OHs or more since last inspection, within 200 HMU OHs after effective date of this AD.

(ii) For HMUs that have accumulated fewer than 300 OHs since last inspection, before exceeding 500 HMU OHs.

(h) Repetitive Visual Inspections of HMUs

(1) Thereafter, repetitively visually inspect the HMU aft splines of the high pressure pump, and clean and inspect the sleeve assembly splines for wear, corrosion, scaling, or cracks, at intervals not to exceed 500 HMU OHs.

(2) If, during any initial or repetitive inspection required by this AD, an HMU does not pass inspection, then before further flight, replace the sleeve assembly on the affected high pressure pump drive gear shaft or replace the affected HMU.

(i) Installation Prohibition

After the effective date of this AD, do not install any engine on any helicopter unless the HMU was inspected as required by this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

(k) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; email: *frederick.zink@faa.gov;* phone: 781–238–7779; fax: 781–238–7199.

(2) Refer to European Aviation Safety Agency, AD 2013–0082, dated April 2, 2013, for more information. You may examine the AD on the Internet at *http://www.regulations.gov.*

(3) Turbomeca MSB No. SB 319 73 2825, Version G, dated January 24, 2013, which is not incorporated by reference in this AD, can be obtained from Turbomeca, S.A. using the contact information in paragraph (k)(4) of this AD.

(4) For service information identified in this AD, contact Turbomeca, S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15.

(5) You may view this service information at the 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.

Issued in Burlington, Massachusetts, on July 18, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–17864 Filed 7–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0499; Directorate Identifier 2013–NE–20–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain General Electric Company (GE) GE90–110B1 and –115B turbofan engines. This proposed AD was prompted by multiple events of a leaking variable bypass valve (VBV) actuator fuel supply tube. This proposed AD would require replacement of this VBV actuator fuel supply tube with a part eligible for installation. We are proposing this AD to prevent failure of the affected fuel supply tube, fuel leakage, engine fire, and damage to the airplane.

DATES: We must receive comments on this proposed AD by September 23, 2013.

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

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

For service information identified in this proposed AD, contact General Electric Company, GE Aviation, Room 285, One Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *geae.aoc@ge.com.* You may view this service information at the 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.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7747; fax: 781–238–7199; email: *jason.yang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0499; Directorate Identifier 2013–NE–20–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received multiple reports of a leaking VBV actuator fuel supply tube, part number (P/N) 2165M22P01, installed on GE90–110B1 and –115B turbofan engines. One of the leaks led to an under cowl engine fire. The vibratory excitation frequency of this VBV actuator fuel supply tube mode shape is within the frequency range generated by the engine during cruise. Because the tube's end weld is a high stress concentration location, the tube can and has cracked in this area and eventually failed due to high-cycle fatigue. This proposed AD, therefore, requires replacement of the affected VBV

actuator fuel supply tube with a part eligible for installation.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require replacement of the VBV actuator fuel supply tube, P/N 2165M22P01, with a part eligible for installation.

Costs of Compliance

We estimate that this proposed AD would affect about 59 engines installed on airplanes of U.S. registry. We also estimate that it would take about eight hours per engine to replace the VBV actuator fuel supply tube. The cost of this part is about $14,310. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $884,410.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska 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.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2013–0499; Directorate Identifier 2013–NE–20–AD.

(a) Comments Due Date

We must receive comments by September 23, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) GE90–110B1 and –115B turbofan engines with variable bypass valve (VBV) actuator fuel supply tube, part number (P/N) 2165M22P01, installed.

(d) Unsafe Condition

This AD was prompted by multiple events of a leaking VBV actuator fuel supply tube. We are issuing this AD to prevent failure of the affected fuel supply tube, fuel leakage, engine fire, and damage to the airplane.

(e) Compliance

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

(2) At the next shop visit, after the effective date of this AD, replace the VBV actuator fuel supply tube, P/N 2165M22P01, with a part eligible for installation.

(f) Definition

For the purpose of this AD, a shop visit is the induction of an engine into the shop for maintenance or overhaul. The separation of engine flanges solely for the purposes of transporting the engine without subsequent engine maintenance does not constitute an engine shop visit.

(g) Installation Prohibition

After the effective date of this AD, do not install a VBV actuator fuel supply tube, P/N 2165M22P01, onto any engine.

(h) Alternative Methods of Compliance (AMOCs)

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

(i) Related Information

(1) For more information about this AD, contact Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7747; fax: 781–238–7199; email: *jason.yang@faa.gov.*

(2) For service information identified in this AD, contact General Electric Company, GE Aviation, Room 285, One Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *geae.aoc@ge.com.*

(3) You may view this service information at the 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.

Issued in Burlington, Massachusetts, on July 17, 2013.

Thomas A. Boudreau,

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

[FR Doc. 2013–17884 Filed 7–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 38 and 284

[Docket No. RM13–17–000]

Communication of Operational Information Between Natural Gas Pipelines and Electric Transmission Operators

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to revise Parts 38 and 284 of the Commission's regulations to provide explicit authority to interstate natural gas pipelines and public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce to share non-public, operational information with

each other for the purpose of promoting reliable service or operational planning on either the public utility's or pipeline's system.

DATES: Comments are due August 26, 2013.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

• *Electronic Filing through http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

• *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Caroline Daly (Technical Information), Office of Energy Policy & Innovation, 888 First Street NE., Washington, DC 20426, (202) 502–8931, *caroline.daly@ferc.gov.*

Anna Fernandez (Legal Information), Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–6682, *anna.fernandez@ferc.gov.*

SUPPLEMENTARY INFORMATION:

1. In this Notice of Proposed Rulemaking, the Commission is proposing to revise Parts 38 and 284 of the Commission's regulations to provide explicit authority to interstate natural gas pipelines and public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce to share non-public, operational information with each other for the purpose of promoting reliable service or operational planning on either the public utility's or pipeline's system.[1] This proposal will help ensure the reliability of pipeline and public utility transmission service by permitting transmission operators to share the information that they deem necessary to promote the reliability and integrity of their systems with each other. However, recipients of that non-public, operational information would be subject to a No-Conduit Rule that prohibits subsequent disclosure of that information to an affiliate or third party.

[1] For ease of reference, we will refer to these parties collectively as ''transmission operators.''

I. Background

2. In recent years, reliance on natural gas as a fuel for electric generation has steadily increased.[2] This trend is expected to continue into the future, resulting in greater interdependence between the natural gas and electric industries.[3] Several events over the last few years, such as the Southwest Cold Weather Event,[4] show the crucial interconnection between natural gas pipelines and electric transmission operators and the need for robust communication between these industry sectors to ensure that both systems operate safely and effectively for the benefit of their customers. While entities from both industries have already begun efforts to improve coordination, further sharing of non-public, operational information between transmission operators could enhance system reliability and contingency planning in both industries.

3. On February 15, 2012, the Commission issued a notice in Docket No. AD12–12–000 requesting comments on various aspects of gas-electric interdependence and coordination in response to questions posed by members of the Commission.[5] In order to better understand the interface between the electric and natural gas pipeline industries and identify areas for improved coordination, the questions covered a variety of topics including market structure and rules, scheduling, communications, infrastructure and reliability. In response to the notice, the Commission received comments from 79 entities, with some raising concerns that current laws, regulations, or tariffs may hinder the sharing of such information.

4. During August 2012, the Commission convened five regional conferences for the purpose of exploring these issues and obtaining further information from the electric and natural gas industries regarding coordination between the industries. Representatives from a cross-section of both industries attended the regional conferences, with total attendance exceeding 1,200 registrants. Among the topics discussed at the conferences were communications, coordination, and information-sharing. Participants at multiple conferences again expressed concern that Commission rules and policies could be impeding further efforts to improve communication between the industries.[6] Some natural gas pipelines and Regional Transmission Organizations and Independent System Operators (RTOs/ISOs) also noted that, although they make significant amounts of operational information publicly available, there is reluctance to share information on a more granular level because of concerns about violating statutory prohibitions against undue preference for any customer or customer class.[7]

5. On November 15, 2012, the Commission issued an order directing further technical conferences and

[2] *See, e.g.,* Energy Information Administration, *Fuel Competition in Power Generation and Elasticities of Substitution* (June 2012); Richard Smead, *All Industry Segments Working for Success in Growing Gas-Fired Generation* (Nov. 15, 2012), *available at http://www.navigant.com/insights/library/energy/2012/gas_fired_generation/;* ISO–NE, *Addressing Gas Dependence* at 3 (July 2012) (reliance on natural gas-fired electricity in the region increased from five percent in 1990 to 51 percent in 2011), *available at http://www.iso-ne.com/committees/comm_wkgrps/strategic_planning_discussion/materials/natural-gas-white-paper-draft-july-2012.pdf.*

[3] *See,* e.g., North American Electric Reliability Corporation, *2013 Special Reliability Assessment: Accommodating an Increased Dependence on Natural Gas for Electric Power; Phase II: A Vulnerability and Scenario Assessment for the North American Bulk Power System* at 1 (May 2013) (''Over the past decade, natural gas-fired generation rose significantly from 17 percent to 25 percent of U.S. power generation and is now the largest fuel source for generation capacity. Gas use is expected to continue to increase in the future, both in absolute terms and as a share of total power generation and capacity.''), *available at http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_PhaseII_FINAL.pdf;* Energy Information Administration, *Annual Energy Outlook 2013 Early Release Overview* (2013) (showing electric generation from natural gas rising from 13 percent in 1993 to 30 percent in 2040), *available at http://www.eia.gov/forecasts/aeo/er/early_elecgen.cfm;* The New England State Committee on Electricity, *Natural Gas Infrastructure and Electric Generation: A Review of Issues Facing New England* (Dec. 14, 2012), *available at http://www.nescoe.com/uploads/Phase_I_Report_12-17-2012_Final.pdf.*

[4] *See* FERC/NERC, *Report on Outages and Curtailments During the Southwest Cold Weather Event of February 1–5, 2011* (2011), *available at http://www.ferc.gov/legal/staff-reports/08-16-11-report.pdf.*

[5] *Coordination Between Natural Gas and Electricity Markets,* Docket No. AD12–12–000 (Feb. 15, 2012) (Notice Assigning Docket No. and Requesting Comments) (*available at http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12893828*). *See also* Commissioner Philip D. Moeller, *Request for Comments of Commissioner Moeller on Coordination between the Natural Gas and Electricity Markets* (Feb. 3, 2012), *available at http://www.ferc.gov/about/com-mem/moeller/moellergaselectricletter.pdf;* Commissioner Cheryl A. LaFleur, *Statement regarding Standards for Business Practices for Interstate Natural Gas Pipelines* (Feb. 16, 2012), *available at http://www.ferc.gov/media/statements-speeches/lafleur/2012/02-16-12-lafleur-G-1.asp.*

[6] *See FERC Staff Report on Gas-Electric Coordination Technical Conferences* (Nov. 2012), *available at http://www.ferc.gov/legal/staff-reports/11-15-12-coordination.pdf* (November 15 Staff Report).

[7] November 15 Staff Report at 24.

reports.[8] In the November 15 Order, the Commission acknowledged the concerns regarding communications between the two industries, but found that there was little specific discussion of potential clarifications or potential changes to the Commission's regulations.[9] The Commission, therefore, directed Commission staff to convene a technical conference to identify areas in which additional Commission guidance or potential regulatory changes could be considered.[10]

6. Pursuant to the November 15 Order, on December 7, 2012, a Notice of Request for Comments and Technical Conference to be held on February 13, 2013 was issued on information sharing and communication issues between the natural gas and electricity industries.[11] Interested parties were asked to file comments prior to the technical conference on three questions related to communications and information sharing. Twenty-seven comments were filed in response to the Notice of Request for Comments and Technical Conference,[12] and more than 350 persons, representing a cross-section of industry, registered for the technical conference.

7. In response to the Notice of Request for Comments and Technical Conference, and at the February 13 technical conference itself, natural gas and electric industry participants described a variety of actions that are currently being taken to improve communications and information sharing between the two industries. However, several entities acknowledged that system reliability and contingency planning could be further enhanced by the sharing of non-public, operational information directly between transmission operators.[13] Several transmission operators pointed out that there is general reluctance to share such information because of concerns that doing so could be a violation of current laws, regulations or tariffs.[14] For example, INGAA stated that there is some risk that a pipeline could be subject to an allegation of undue discrimination in violation of section 4 of the Natural Gas Act (NGA) if it provides an electric transmission operator with non-public transmission information with respect to any transportation or sale of natural gas without contemporaneously disclosing that information to all other shippers or potential shippers.[15] MidAmerican and AGA also expressed concerns that the Standards of Conduct[16] or the Commission's prohibition on ''undue discrimination'' may present a real or perceived barrier to effective participation in certain table-top reliability exercises or emergency or system planning exercises among regional stakeholders.[17] Accordingly, INGAA and several others requested that, in order to facilitate the exchange of information between transmission operators, the Commission should more clearly identify the types of operational information that may be shared between transmission operators and clarify that the sharing of such information does not violate the prohibition against undue discrimination.[18]

8. While electric generators generally did not oppose the sharing of such information, they, together with other entities, expressed concern about the communication of generator-specific information between an electric transmission operator and a pipeline operator without the generator's knowledge. For example, We Energies asserted that excluding the generator operator from discussions between RTOs/ISOs and natural gas pipelines regarding the status of a generator's fuel supplies will increase the risk that generator capability will be misrepresented.[19] We Energies also stated that a generating unit's-specific market sensitive information, such as run times and dispatch levels provided to a pipeline by the RTO prior to the generator having arranged for any needed incremental gas transportation requirements, could provide the pipeline with a competitive advantage over the generator in pricing its transportation services to that generator.[20] National Grid stated that commercially sensitive information from individual generators should not be shared with natural gas pipeline representatives or affiliates that sell or buy wholesale electric power or market natural gas.[21]

9. Some commenters expressed concern regarding the potential harm to industry participants or the potential for improper use of material resulting from increased communications.[22] For example, MidAmerican stated that customer specific information is commercially sensitive and must be subject to strict limitations, including appropriate protocols ensuring that generator unit-specific gas usage and transportation information is not publicly posted or disclosed to non-directly connected pipelines. AF&PA stated that generally information that is potentially commercially sensitive should only be disseminated when there is an articulable and rational reason to expect such exchanges would further improve reliability or efficiency on either or both systems.[23] In addition, APGA argued that transportation information provides the potential for gaming, market manipulation, and other violations of the NGA and Federal Power Act (FPA). EPSA asserted that, when system operators share information with natural gas pipelines, pipelines should have appropriate limitations on who has access to this information. EPSA stated that specific

[8] *Coordination Between Natural Gas and Electricity Markets,* 141 FERC ¶ 61,125 (2012) (November 15 Order).

[9] *Id.* P 5.

[10] *Id.*

[11] *Coordination between Natural Gas and Electricity Markets,* Docket No. AD12–12–000 (Dec. 7, 2012) (Notice Of Request for Comments and Technical Conference) (*http://www.ferc.gov/EventCalendar/Files/20121207134434-AD12-12-000TC1.pdf*); 77 Fed. Reg. 74180 (Dec. 13, 2012) (*http://www.gpo.gov/fdsys/pkg/FR-2012-12-13/pdf/2012-30063.pdf*).

[12] A list of commenters with the abbreviations used to identify them is attached as an Appendix.

[13] *See, e.g.,* MISO Comments, Docket No. AD12–12–000, at 3 (filed Jan. 7, 2013), 6; ISO–NE Comments, Docket No. AD12–12–000, at 4 (filed Jan. 7, 2013); SPP Comments, Docket No. AD12–12–000, at 5 (filed Jan. 7, 2013); PJM Comments, Docket No. AD12–12–000, at 3 (filed Jan. 11, 2013); MidAmerican Comments, Docket No. AD12–12–000, at 9–10 (filed Jan. 7, 2013); BPA Comments, Docket No. AD12–12–000, at 6 (filed Jan. 7, 2013); NYTOs Comments, Docket No. AD12–12–000, at 4 (filed Jan. 7, 2013); AGA Comments, Docket No. AD12–12–000, at 4 (filed Jan. 7, 2013); National Grid Comments, Docket No. AD12–12–000, at 8 (filed Jan. 7, 2013).

[14] *See, e.g.,* Spectra Comments, Docket No. AD12–12–000, at 3–5 (filed Jan. 7, 2013); MISO Comments, Docket No. AD12–12–000, at 5 (filed Jan. 7, 2013); INGAA Comments, Docket No. AD12–12–000, at 9–11 (filed Jan. 7, 2013); ISO–NE Comments, Docket No. AD12–12–000, at 4 (filed Jan. 7, 2013); PJM Comments, Docket No. AD12–12–000, at 4 (filed Jan. 11, 2013).

[15] INGAA Comments, AD12–12–000, at 11 (filed Jan. 7, 2013).

[16] 18 CFR Part 358 (2012).

[17] MidAmerican Comments, Docket No. AD12–12–000, at 8 (filed Jan. 7, 2013); AGA Comments, Docket No. AD12–12–000, at 8 (filed Jan. 7, 2013).

[18] INGAA Comments, Docket No. AD12–12–000, at 11 (filed Jan. 7, 2013). *See also* NYTOs, Docket No. AD12–12–000, at 4, 9 (filed Jan. 7, 2013); MidAmerican Comments, Docket No. AD12–12–000, at 10 (filed Jan. 7, 2013); AGA Comments, Docket No. AD12–12–000, at 4 (filed Jan. 7, 2013); Spectra Comments, Docket No. AD12–12–000, at 5 (filed Jan. 7, 2013).

[19] We Energies Comments, Docket No. AD12–12–000, at 3 (filed Jan. 7, 2013).

[20] We Energies Comments, Docket No. AD12–12–000, at 5 (filed Jan. 7, 2013).

[21] National Grid Comments, Docket No. AD12–12–000, at 8–9 (filed Jan. 7, 2013).

[22] *See, e.g.,* MidAmerican Comments, Docket No. AD12–12–000, at 10 (filed Jan. 7, 2013); APGA Comments, Docket No. AD12–12–000, at 5 (filed Jan. 7, 2013); AEP Comments, Docket No. AD12–12–000, at 7 (filed Jan. 7, 2013); AF&PA Comments, Docket No. AD12–12–000, at 2 (filed Jan. 7, 2013); EPSA Comments, Docket No. AD12–12–000, at 7 (filed Jan. 7, 2013).

[23] AF&PA Comments, Docket No. AD12–12–000, at 5 (filed Jan. 7, 2013).

guidelines are needed when the same person at a pipeline who sells and schedules capacity could have access to shared information.[24] NYTOs noted that, since generators and fuel managers in New York are merchant entities, there is potential for misuse of confidential information (for example, whether a generator is critical to maintain reliability) to the extent it is shared as part of these communications.[25] NYTOs stated that they would not support disclosure of market-sensitive information unless strong measures were in place to prevent and punish market abuses.

II. Discussion

10. Communications occur today in the normal course of business between transmission operators and those communications serve a valuable and necessary purpose to help ensure reliability. In an effort to provide certainty to the industry and remove barriers—real or perceived—to the sharing of non-public, operational information, the Commission proposes to revise its regulations to authorize expressly the exchange of non-public, operational information between electric transmission operators and interstate natural gas pipelines. The Commission intends to remove any barriers to the sharing of non-public, operational information, not just during emergencies, but also for day-to-day operations, planned outages, and scheduled maintenance. However, in consideration of the concerns regarding the exchange of non-public operational information, the Commission also proposes to adopt a No-Conduit Rule which prohibits recipients of the non-public, operational information from subsequently disclosing or being a conduit for subsequently disclosing that information to any other entity.[26] Moreover, to the extent that an electric transmission operator or pipeline has a tariff provision which precludes a communication that would otherwise be authorized under the proposed regulations, it would have to make a filing under the FPA or NGA to revise that provision to permit such exchanges of information.

11. The Commission has structured the proposed regulations to provide significant flexibility to individual transmission operators—who have the most insight and knowledge of their systems—to determine what non-public operational information, if any, would promote reliable service on their systems, without fear of violating the Commission's prohibitions on undue discrimination and undue preference or such an exchange being considered an unjust or unreasonable practice. Notably, the Commission is proposing a permissive approach to the sharing of non-public information. To the extent this voluntary approach proves inadequate to promote reliable service or operational planning on natural gas pipelines and electric transmission systems, the Commission may revisit the need to require certain communications or information sharing between transmission operators in the future.

A. Undue Discrimination or Preference

12. To provide context for the proposed regulations discussed below, the Commission first reviews the existing statutory and regulatory requirements applicable to communications between the gas and electric industries. Both the FPA and the comparable provisions of the NGA prohibit undue discrimination or preference.[27] Specifically, section 205(b) of the FPA provides that no public utility:

> shall, with respect to any transmission or sale subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.[28]

13. FPA section 205(b) and NGA section 4(b) do not forbid preferences, advantages and prejudices per se.[29] Rather, FPA section 205(b) and NGA section 4(b) prohibit ''undue'' preferences, advantages and prejudices.[30] A difference in treatment is not unduly discriminatory when the difference is justified.[31] In interpreting FPA section 205(b) and NGA section 4(b), the courts have held that transmission providers cannot treat similarly situated customers differently[32] and that the disparate treatment of two customer classes does not in and of itself result in an undue preference or advantage or in an unreasonable difference in service if the customer classes are not similarly situated.[33] Whether a preference is ''undue'' depends on the specific facts of the behavior and the circumstances to determine whether disparities exist and whether those disparities are rationally justified.[34] The Commission's Standards of Conduct seek to deter undue discrimination by prohibiting the exchanges of information between transmission providers and their marketing functions in certain situations.[35] The comments in the proceeding in Docket No. AD12–12–000 focus on the applicability of both the statutory prohibitions on undue discrimination and the Standards of Conduct.

14. The first issue is whether the statutory restrictions in the FPA and NGA regarding undue discrimination or unjust and unreasonable acts and practices prevent the exchange of information between operators of pipeline transportation systems and electric transmission operators. The Commission believes that the sharing of non-public, operational information between public utilities and natural gas pipelines for the purpose of promoting reliable service or operational planning is reasonable and not unduly discriminatory or preferential. The undue discrimination provisions apply to ensure that similarly situated customers are not subject to disparate rates or terms and conditions of service. As discussed below, transmission operators are not similarly situated to other customers because they require

[24] EPSA Comments, Docket No. AD12–12–000, at 7 (filed Jan. 7, 2013).

[25] NYTOs Comments, Docket No. AD12–12–000, at 7 (filed Jan. 7, 2013).

[26] Conduct and Affiliate Restrictions. *See* 18 CFR 358.6 and 18 CFR 35.39(g). Moreover, the Commission determined in Order No. 717 that the No-Conduit Rule was a critical component of the regulatory scheme of the Standards of Conduct. *See Standards of Conduct for Transmission Providers,* Order No. 717, 73 FR 63796 (Oct. 27, 2008), FERC Stats. & Regs. ¶ 31,280, at P 198 (2008).

[27] 16 U.S.C. 824d(b) (2006); 15 U.S.C. 717c(b) (2006).

[28] The language of the NGA is virtually identical. 15 U.S.C. 717c(b) (2006).

[29] *See, e.g., Cities of Bethany* v *FERC,* 727 F.2d 1131, 1139 (Cir.), cert. denied, 469 U.S. 917, 105 S.Ct. 293, 83 L.Ed.2d 229 (1984).

[30] *See, e.g., Boroughs of Chambersburg* v. *FERC,* 580 F.2d 573, 577 (D.C. Cir. 1978).

[31] *See* Metropolitan Edison Co. v. *FERC,* 595 F.2d 851, 857 (D.C. Cir. 1979). *See also Transmission Agency of N. California* v. *FERC,* 628 F.3d 538, 549 (D.C. Cir. 2010) (citing *Ark. Elec. Energy Consumers* v. *FERC,* 290 F.3d 362, 367 (D.C. Cir. 2002) and *Elec. Consumers Res. Council* v. *FERC,* 747 F.2d 1511, 1515 (D.C. Cir. 1984)).

[32] *See Transmission Agency of N. California* v. *FERC,* 628 F.3d at 549 (citing *Sacramento Mun. Util. Dist.* v. *FERC,* 474 F.3d 797, 802 (D.C. Cir. 2007)).

[33] *See, e.g., Sw. Elec. Coop., Inc.* v. *FERC,* 347 F.3d 975, 981 (D.C. Cir. 2003). *See also Michigan Consolidated Gas Co.* v. *FPC,* 203 F.2d 895, 901 (3d Cir. 1953) and *Complex Consol. Edison Co. of New York, Inc.* v. *FERC,* 165 F.3d 992, 1012 (D.C. Cir. 1999).

[34] *See St. Michaels Utilities Comm'n* v. *Fed. Power Comm'n,* 377 F.2d 912, 915 (4th Cir. 1967).

[35] Order No. 717, FERC Stats. & Regs. ¶ 31,280 at P 3.

access to non-public scheduling and other types of information from a variety of sources to help them ensure the reliability and integrity of the transportation and transmission systems. In addition, natural gas pipelines are generally not customers of electric transmission operators. Likewise, in the case of RTOs/ISOs, they are not shippers on pipelines. We recognize that some vertically integrated transmission owners may have marketing function employees or affiliates, such as generators or local distribution companies who handle gas transactions. However, putting in place the proposed No-Conduit rule will serve as a safeguard to ensure that the transmission owners comply with the prohibitions against undue discrimination or preference with respect to their marketing function or affiliated entities.[36]

15. In order to operate natural gas pipelines and electric transmission systems effectively, transmission operators historically and necessarily have shared non-public information with other parties operating transportation or transmission facilities. For example, pipeline operators routinely exchange nomination and scheduling information with other pipeline operators and with upstream and downstream entities (that may be shippers on the pipeline) to confirm transportation nomination requests and to coordinate flows between the parties.[37] Transmitting electric utilities similarly coordinate the sharing of non-public interchange schedule information on a routine basis through mechanisms such as, for example, e-Tags.[38] This coordination helps ensure the safe and reliable transmission of electric power across a region.

16. Likewise, in Order No. 698, the Commission authorized the exchange of operational information between the industries.[39] There, the Commission incorporated North American Energy Standards Board (NAESB) Wholesale Gas Quadrant (WGQ) Standard 0.3.12 into its regulations. This standard requires a generator and its directly connected natural gas pipeline(s) to ''establish procedures to communicate material changes in circumstances that may impact hourly flow rates.'' [40] In addition, this standard ensures that natural gas pipelines have relevant planning information to assist in maintaining the operational integrity and reliability of pipeline service, as well as to provide gas-fired power plant operators with information as to whether hourly flow deviations can be honored. NAESB Wholesale Electric Quadrant (WEQ) Standard 011–1.6, also incorporated in the Commission's regulations,[41] requires that ISOs, RTOs, and other independent system operators establish written operational communication procedures with the appropriate pipeline to be implemented when an extreme condition occurs.

17. Sharing of operational information between natural gas pipelines and electric transmission operators is akin to the sharing of operational information among interconnected parties. Both the natural gas pipelines and the electric transmission operators need to know whether scheduled transactions on their respective systems will be honored by the other. This sharing of information is crucial to the effective operations of both systems and is not the type of private sharing of information with select customers at which the undue discrimination provisions of the respective statutes were targeted.

18. There are already several safeguards in place to protect against undue discrimination. For example, while non-public operational information may be useful for planning, transmission operators cannot deviate from the terms of their tariffs, and cannot operate in an unduly discriminatory manner.[42] Interstate natural gas pipelines and electric transmission operators are also subject to the same limitations on sharing information with their marketing function employees as provided under the Standards of Conduct.[43] Moreover, we are proposing additional safeguards as discussed below.

19. Based on the critical need for such exchanges of information to promote the reliability and the operational integrity of industries the Commission regulates, and the protections against undue discrimination, we find that the exchange of non-public, operational information between transmission operators does not violate the statutory prohibitions on undue discrimination or preference as discussed herein.

B. Clarification Regarding Table-Top Exercises

20. Several comments requested clarification of the applicability of the Standards of Conduct and statutory prohibition against undue discrimination to exchanges of information with regard to table-top exercises involving marketing affiliates of transmission providers and inter-industry participants. The Standards of Conduct govern, among other things, communications between interstate natural gas pipelines and their employees and affiliates that engage in marketing functions, and public utilities that own or operate electric transmission facilities and their employees and affiliates that engage in marketing functions.[44] As the Commission has previously stated, the Standards of Conduct apply to communications only within the same organization (in other words, between the affiliated entities of a single corporate family) and therefore, do not limit communications between

[36] The Standards of Conduct at 18 CFR 358.6 and 358.7 govern the preferential sharing of transmission function information from a transmission provider to its marketing function employees as defined in 18 CFR 358.3(c).

[37] The nomination process initiates the flow of gas with the natural gas transportation service provider. The natural gas transportation service provider then confirms the flow of natural gas with the corresponding upstream and downstream entities. Once the natural gas quantities are confirmed, the natural gas transportation service provider sends the scheduled quantities information to the shipper.

[38] e-Tags are used by applicable Balancing Authorities, Reliability Coordinators, Interchange Authorities, Transmission Service Providers, Purchasing-Selling Entities, Generator-Providing Entities, and Load-Serving Entities to coordinate interchange schedules. *See, e.g.,* NAESB Wholesale Electric Quadrant (WEQ) Business Practice Standards (Coordinate Interchange) requirement 004–2 (''Until other means are adopted by NAESB, the primary method of submitting the RFI [Request for Interchange] shall be an e-Tag communicated to and managed by the Sink BA's [Balancing Authority] registered e-Tag authority service using protocols compliant with the Version 1.8.1 Electronic Tagging Functional Specification.'') and applicability section (''The Coordinate Interchange Business Practice Standards apply to BA [Balancing Authority], RC [Reliability Coordinator], IA [Interchange Authority], Transmission Service Provider, PSE [Purchasing-Selling Entity], GPE [Generator-Providing Entity], Load-Serving Entity [LSE], and any TPSE [a PSE whose transmission approval rights are cited].'') NAESB WEQ Business Practice Standards (Version 003), published July 31, 2012.

[39] *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities,* Order No. 698, FERC Stats. & Regs. ¶ 31,251 (2007),*order on clarification and reh'g,* Order No. 698–A, 121 FERC ¶ 61,264 (2007). In Order No. 698, the Commission incorporated by reference standards adopted by NAESB.

[40] NAESB WGQ Version 2.0 Business Practice Standard 0.3.12. *See also Standards for Business Practices for Interstate Natural Gas Pipelines,* Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 (cross-referenced at 140 FERC ¶ 61,036) (2012), (incorporating by reference the Version 2.0 WGQ Business Practice Standards) (to be codified at 18 CFR 284.12).

[41] 18 CFR Part 38 (2012).

[42] *See ISO New England Inc.,* 142 FERC ¶ 61,058, at P 23 (2013) (available capacity must be dispatched ''consistent with the pipeline's tariff'' and ''[t]he pipelines are required to allocate available capacity on a not unduly discriminatory basis among the various requestors of capacity'').

[43] 18 CFR 358.6 and 358.7.

[44] 18 CFR 358.1(a) and (b) (2012).

unaffiliated pipelines and electric transmission providers.[45]

21. Under the Standards of Conduct, marketing function employees may participate in table-top exercises that include a wide range of industry participants who will have equal access to non-public transmission information. However, as the Commission has explained, non-public transmission information cannot be provided during private table-top exercises involving only the transmission provider and marketing function employees since they would receive preferential access to non-public transmission information or preferential access to transmission facilities.[46]

C. Revisions to Regulations

22. Consistent with the foregoing discussion of existing statutes and regulations, to provide additional certainty to transmission operators regarding the permissibility of sharing of non-public, operational information, the Commission is proposing to revise its regulations to authorize expressly the exchange of non-public, operational information between electric transmission operators and interstate natural gas pipelines.[47] Proposed section 38.3 applies to any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce subject to a No-Conduit Rule. Similar changes are proposed in section 284.12(b), which applies to any interstate pipeline.[48]

1. Permissible Disclosure of Non-Public, Operational Information

23. Proposed sections 38.3(a) and 284.12(b)(4) authorize public utilities providing transmission service and natural gas pipelines to share non-public, operational information when such information is for the purpose of promoting reliable service or operational planning. The term ''non-public, operational information'' is information that is not publicly posted, yet helps transmission operators to operate and maintain either a reliable pipeline system or a reliable electric transmission system on a day-to-day basis, as well as during emergency conditions or for operational planning. Non-public, operational information may also include generator, pipeline, or transmission-specific information. In using the term ''non-public, operational information,'' the Commission intends that transmission operators would be permitted to share information dealing with actual, anticipated, or potential effects on the ability to provide electric and gas service based on the respective operator's experience and understanding of the operational capability and customer demands on their respective systems. Examples of such information include, but are not limited to, the following types of information:

- Real-time and anticipated system conditions that have or are anticipated to impact natural gas transportation by changing near term gas flows;
- actual and anticipated electric service interruptions to gas compressor locations;
- verification that there is sufficient pipeline operational capability available at a specific delivery point to change the quantity of natural gas delivered to the generator as identified by the electric transmission operator;
- actual and projected gas transportation restrictions to electric generators;
- real-time actual flow and point operational capacity data at all receipt and delivery points; real-time pipeline pressure at all receipt and delivery points;
- nominated and scheduled quantities of shippers who are or who supply gas-fired generators; and,
- scheduled dates and duration of generator, pipeline, and transmission maintenance and planned outages.

24. The Commission is not proposing a specific list of non-public, operational information that can be shared in order to provide flexibility to individual operators—who have the most insight and knowledge of their systems—to determine what operational information, if any, would promote reliable service or operational planning on their systems. The Commission seeks comment on the scope of the non-public, operational information transmission operators may share under the proposed regulations, including the specific categories of information identified above.

25. The Commission recognizes that the provisions of this proposal apply only to communications between pipelines and electric transmission operators and that natural gas-fired generators may have relevant information regarding their capabilities to acquire natural gas not available to a pipeline. Therefore, the Commission seeks comment on whether additional regulations are needed to require a generator to share necessary information with its electric transmission operator to inform it of the possibility that the generator's natural gas service may be disrupted. For example, the Commission seeks comment on whether a generator should be required, at the request of the electric transmission operator, to provide its electric transmission operator with information pertaining to any communications received from a natural gas pipeline regarding potential failures by the generator to conform to flow rates or nominations. In addition, the Commission seeks comment on whether the proposed rule should require that, to the extent the non-public, operational information exchanged between transmission operators involves customer-specific information (such as information about individual generators), the transmission operators must seek to include the customer as part of a three-way communication.[49] If so, the Commission seeks comment on how such a requirement could be implemented.

2. Limitations on Disclosure

26. The Commission is proposing several protections, in addition to the existing protections described above, to ensure that any non-public, operational information shared under these proposed regulations remains confidential, and to ensure that information is shared among transmission owners in a manner that is consistent with the prohibition on undue discrimination. Proposed sections 38.3(b) and 284.12(b)(4)(ii) adopt a No-Conduit Rule that prohibits all public utilities and natural gas pipelines, as well as their employees, contractors, consultants, or agents, from disclosing, or using anyone as a conduit for the disclosure of, non-public, operational information they receive under this proposed rule to a third party.[50] Sections 38.3(b) and

[45] November 15 Order, 141 FERC ¶ 61,125 at P 6. *See also* 18 CFR 358.1.

[46] *See Ameren Services Co., et al.,* 86 FERC ¶ 61,079, at 61,290 (1999). *See also South Carolina Electric and Gas Co.,* 111 FERC ¶ 61,217 (2005).

[47] The proposed regulations also recognize the existing exchanges of information among pipelines and among electric transmission operators that promote reliable service or operational planning.

[48] While the Commission also regulates interstate service provided by intrastate pipelines, Hinshaw pipelines, and local distribution companies, the companies themselves are subject to state regulation and may exchange information subject to whatever state regulations govern their operations.

[49] The Commission notes that communications between transmission operators and generators are not covered by this proposed rule; transmission operators may always discuss generator-specific information with the relevant generator.

[50] The Commission does not believe the existing No-Conduit Rule under the Standards of Conduct will sufficiently limit the disclosure of the information received under this proposed rule. The proposed No-Conduit Rule has a broader prohibition on disclosure, since it applies to all third parties, not just marketing function employees. Furthermore, the Standards of Conduct,

Continued

284.12.(b)(4)(ii) similarly prohibits the disclosure of such non-public, operational information to marketing function employees, as that term is defined in § 358.3 of the Commission's regulations.[51] Proposed sections 38.3(b) and 284.12(b)(4)(ii) do not prohibit communications between transmission operators covered by this rule. As discussed previously, together with the requirements that natural gas pipelines and transmission owners abide by their tariffs, these additional disclosure limitations should adequately protect against the harmful disclosure of non-public information and undue discrimination.[52]

27. We Energies and EPSA expressed concerns that generator-specific non-public information provided to a pipeline by an electric transmission operator prior to the generator having arranged for any needed incremental gas transportation requirements could provide the pipeline with a competitive advantage over the generator in pricing transportation services. We see no need to propose additional protections regarding pipeline transportation at this time. Interstate pipelines are required to allocate service, on a not unduly discriminatory basis, based on their tariffs, at a rate not exceeding the just and reasonable rate on file. Pipelines are not required to discount services, and if they choose to discount, are permitted to obtain information from any source to demonstrate that the shipper requesting the discount has competitive alternatives.[53]

III. Information Collection Statement

28. The following collection of information contained in the Proposed Rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).[54] OMB's regulations require that OMB approve certain reporting and recordkeeping requirements (collections of information).[55] Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the information collection requirements of this rule will not be penalized for failing to respond to this collection of information unless the collection of information displays a valid OMB control number.

29. The Commission will submit the information collection requirements to OMB for its review and approval under section 3507(d) of the PRA. The communications permitted under this proposed rule are not mandatory. The proposed rule would clarify that the requirements of the FPA and NGA do not prohibit certain voluntary communications between transmission providers.[56] Comments are solicited on the need for this information, whether the information will have practical utility, the accuracy of the provided burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

30. *Public Reporting Burden:* The proposed communications and information sharing are voluntary, take place between various industry entities (and are not submitted to the Commission), and are intended to promote reliable service or operational planning. While the extent of such communications likely will vary significantly across the country, the following estimates represent an expected average. The annual estimates reflect burden for operational contacts and emergencies.

FERC–923, COMMUNICATION OF OPERATIONAL INFORMATION BETWEEN NATURAL GAS PIPELINES AND ELECTRICITY TRANSMISSION OPERATORS, AS PROPOSED IN NOPR IN DOCKET NO. RM13–17[57]

Type of entity	Number of respondents	Number of responses per respondent[58]	Average burden hours per response	Total annual burden hours	Total annual cost[59]
(1)	(2)	(3)	(4)	(2)*(3)*(4) = (5)	(5)*($60.41/hr.) = (6)
Public Utility Transmission Provider	[60] 132	12	0.50	792	$47,845
Interstate Natural Gas Pipelines	[61] 137	12	0.50	822	49,657
Total	269	12	0.50	1,614	97,502

Title: Communication of Operational Information between Natural Gas Pipelines and Electricity Transmission Operators.

Action: Proposed FERC–923.

and thus the No-Conduit Rule under the Standards of Conduct, do not apply to RTOs/ISOs. Therefore, the Commission is proposing a No-Conduit Rule in this part of the regulations that is tailored to the entities and information covered by the proposed rule, and extends the disclosure prohibition to non-affiliates.

[51] Since RTOs/ISOs do not have marketing function employees as defined in the Standards of Conduct, this provision would not apply to them.

[52] Unauthorized disclosure of any non-public, operational information may subject the entity or individual making the prohibited disclosure to the enforcement provisions of the FPA and NGA, including potential civil penalties. *See* section 22 of the NGA, 15 U.S.C. 717t2–1 (2006), and section 316A of the FPA, 16 U.S.C. 825o–1 (2006).

[53] *See Associated Gas Distributors* v. *FERC,* 824 F.2d 981 (D.C. Cir. 1987) (permitting selective discounting only when justified by competitive alternatives and elastic demand conditions); *Williston Basin Interstate Pipeline Co.,* 85 FERC ¶ 61,247 (1998). Consistent with that policy, in the next rate case after providing discounts, the Commission only permits pipelines to reduce their rate design volumes to reflect discounting upon a showing that the discounts they offered were required by competition. *See, e.g., Panhandle Eastern Pipe Line Co.,* Opinion No. 395, 71 FERC ¶ 61,228, at 61,867 (1995) (requiring documentation from its customers justifying their need for any discounts that they request); *Panhandle Eastern Pipe Line Co.,* Opinion No. 404, 74 FERC ¶ 61,109, at 61,405 (1996).

[54] 44 U.S.C. 3507(d) (2006).

[55] 5 CFR 1320.11 (2012).

[56] The OMB regulations, 5 CFR 1320.3, provide that ''voluntary'' collections of information must be reported to OMB. The regulations do not define what is meant by voluntary, but it appears that the term was included to ensure review of agency's issuing voluntary surveys to the public. *See* J. Lubbers, Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, 49 Admin, L. Rev. 111,119 (1997). While this justification for the requirement does not appear to apply to an interpretation of a statutory requirement, we nonetheless are submitting this NOPR to OMB as a collection of information.

[57] Columns 5 and 6 are rounded.

[58] The Commission estimates an annual average per entity of 12 responses (including electricity and gas emergency and/or operational contacts).

[59] The hourly costs (for salary plus benefits) are based on the Bureau of Labor Statistics Occupational Outlook Handbook, 2012–2013 edition (*at http://www.bls.gov/ooh/*). The estimated costs are $125,647 annually or $60.41 hourly.

[60] Of the 132 public utility transmission providers, 5 are considered ''small'' using the SBA definition.

[61] The 2012 filings of the Forms 2 and 2A indicated that there are 137 interstate natural gas pipelines. Of those pipelines, eight (8) are considered small using the definition of the Small Business Administration (at 13 CFR 121.301), including the affiliate.

OMB Control No.: To be determined (1902–TBD).

Respondents: Public electricity transmission providers; interstate natural gas pipelines.

Frequency of Responses: As needed.

Necessity of the Information: In this NOPR, the Commission is seeking comment on a proposal to revise Parts 38 and 284 of the Commission's regulations to authorize electric transmission providers and interstate natural gas pipelines to share non-public, operational information for the purpose of promoting reliable service and operational planning.

31. This proposal is intended to address industry concerns and thereby remove any barriers, real or perceived, to electric transmission operators and natural gas pipelines sharing necessary information. The Commission is not requiring that data be submitted to the Commission or to third parties. Rather, the Commission is removing actual or perceived barriers to voluntary communications and information sharing that might otherwise have been part of the normal business process.

32. *Internal Review:* The Commission will submit the information collection requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the need and utility for this information, and the accuracy of the provided burden estimate.

33. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873]. Please send comments concerning the collection of information and the associated burden estimates to the Commission, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4638, fax: (202) 395–7285]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include Docket Number RM13–17, FERC–923, and OMB Control Number 1902–TBD.

IV. Environmental Analysis

34. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[62] The Commission concludes that neither an Environmental Assessment nor an Environmental Impact Statement is required for this Final Rule under section 380.4(a)(2)(ii) of the Commission's regulations, which provides a categorical exemption for proposals for legislation and promulgation of rules that are clarifying, corrective, or procedural, or that do not substantively change the effect of legislation or regulations being amended.[63]

V. Regulatory Flexibility Act Certification

35. The Regulatory Flexibility Act of 1980 (RFA)[64] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA's) Office of Size Standards develops the numerical definition of a small business.[65] The SBA has established a size standard, for electric utilities, electric power distribution, and electric bulk power transmission and control, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed four million megawatt hours.[66] For pipeline transportation of natural gas, the SBA defines a small entity as having a maximum annual receipt of $25.5 million dollars.[67] The Commission estimates a total of 13 ''small'' entities[68] (or 5% out of the total 269 entities) affected by the NOPR.

36. To address industry concerns, the Commission is removing actual or perceived barriers to communications and information sharing (that might otherwise have been part of the normal business process). This proposal will enable entities of all sizes to communicate voluntarily and to share non-public, operational information for the purpose of promoting reliable service or operational planning, thereby easing and improving the normal business process. The estimated annual cost of the proposal for each respondent, large or small, is $362.46.[69] Accordingly, the Commission certifies that the revised requirements set forth in the Notice of Proposed Rulemaking will not have a significant economic impact on a substantial number of small entities, and no regulatory flexibility analysis is required.

VI. Comment Procedures

37. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due August 26, 2013. Comments must refer to Docket No. RM13–17, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

38. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

39. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

40. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

[62] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[63] 18 CFR 380.4(a)(2)(ii) (2012).

[64] 5 U.S.C. 601–612 (2006).

[65] 13 CFR 121.101 (2012).

[66] 13 CFR 121.201, Sector 22, Subsector 221, Utilities & n.1.

[67] Based on 13 CFR 121.201, Sectors 48–49, Subsector 486, Pipeline Transportation, the annual receipts indicate the maximum allowed for a concern and its affiliates to be considered ''small.''

[68] Based on the SBA definitions and including affiliates, the number of ''small'' entities is estimated to be:

- for public utility transmission providers, 5 small public utilities; and
- for natural gas pipelines, 8 small interstate natural gas pipelines.

[69] The estimated annual cost per respondent is $362.46 (12 annual responses × 0.50 hour/response × $60.41/hour).

VII. Document Availability

41. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

42. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

43. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects

18 CFR Part 38

Conflict of interests, Electric power plants, Electric utilities, Incorporation by reference, Reporting and recordkeeping requirements.

18 CFR Part 284

Incorporation by reference, Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 38 and Part 284, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 38—BUSINESS PRACTICE STANDARDS AND COMMUNICATION PROTOCOLS FOR PUBLIC UTILITIES

■ 1. The authority citation for Part 38 continues to read as follows:

Authority: 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. The heading of Part 38 is revised to read as follows:

PART 38—STANDARDS FOR PUBLIC UTILITY BUSINESS OPERATIONS AND COMMUNICATIONS

§ 38.1 [Removed]

■ 3. Remove § 38.1.

§ 38.2 [Redesignated as § 38.1]

■ 4. Redesignate § 38.2 as § 38.1.

■ 5. In newly redesignated § 38.1, paragraph (a) is revised to read as follows:

§ 38.1 Incorporation by reference of North American Energy Standards Board Wholesale Electric Quadrant standards.

(a) Any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce or for the sale of electric energy at wholesale in interstate commerce and any non-public utility that seeks voluntary compliance with jurisdictional transmission tariff reciprocity conditions must comply with the following business practice and electronic communication standards promulgated by the North American Energy Standards Board Wholesale Electric Quadrant, which are incorporated herein by reference:

* * * * *

■ 6. New § 38.2 is added to read as follows:

§ 38.2 Communication and information sharing among public utilities and pipelines.

(a) Any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce is authorized to share non-public, operational information with a pipeline, as defined in § 284.12(b)(4), or another public utility covered by this section for the purpose of promoting reliable service or operational planning.

(b) Except as permitted in paragraph (a), a public utility, as defined in § 38.2, and its employees, contractors, consultants, and agents are prohibited from disclosing, or using anyone as a conduit for the disclosure of, non-public, operational information received from a pipeline pursuant to § 284.12(b)(4) to a third party or to its marketing function employees as that term is defined in § 358.3(d).

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

■ 7. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717z, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

■ 8. In § 284.12, paragraph (b)(4) is added to read as follows:

§ 284.12 Standards for pipeline business operations and communications.

* * * * *

(b) * * *

(4) *Communication and Information Sharing Among Pipelines and Public Utilities.*

(i) A pipeline is authorized to share non-public, operational information with a public utility, as defined in § 38.2(a) or another pipeline covered by this section, for the purpose of promoting reliable service or operational planning.

(ii) Except as permitted in paragraph (i), a pipeline and its employees, contractors, consultants, and agents are prohibited from disclosing, or using anyone as a conduit for the disclosure of, non-public, operational information received from a public utility pursuant to § 38.2 to a third party or to its marketing function employees as that term is defined in § 358.3(d).

Note: The following appendix will not appear in the *Code of Federal Regulations.*

Appendix

LIST OF COMMENTERS AND ABBREVIATIONS

Abbreviation	Name
AEP	American Electric Power Service Corporation.
AF&PA	American Forest & Paper Association.
AGA	American Gas Association.
APGA	American Public Gas Association.
BPA	Bonneville Power Administration.
CAISO	California Independent System Operator Corporation.
EPSA	Electric Power Supply Association.
ERCOT	Electric Reliability Council of Texas, Inc.
FES	First Energy Solutions.
INGAA	Interstate Natural Gas Association of America.
ISO–NE	ISO New England, Inc.
MidAmerican	MidAmerican Energy Holdings Company.
MISO [70]	Midwest Independent Transmission System Operator, Inc.
MMWEC	Massachusetts Municipal Wholesale Electric Company.
National Grid	National Grid USA, Inc.
NE LDCs	New England Local Distribution Companies.
NERC	North American Electric Reliability Corporation.
NYISO	New York Independent System Operator.
NYTOs	New York Transmission Owners.

LIST OF COMMENTERS AND ABBREVIATIONS—Continued

Abbreviation	Name
NIPSCO	Northern Indiana Public Service Company.
PG&E	Pacific Gas and Electric Company.
PJM	PJM Interconnection, L.L.C.
Texas PUC	Public Utility Commission of Texas.
SCE	Southern California Edison Company.
Spectra	Spectra Energy Transmission, LLC.
SPP	Southwest Power Pool, Inc.
We Energies	Wisconsin Electric Power Company and Wisconsin Gas LLC.

[FR Doc. 2013–17682 Filed 7–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM 13–13–000]

Regional Reliability Standard BAL–002–WECC–2—Contingency Reserve

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) proposes to approve regional Reliability Standard BAL–002–WECC–2 (Contingency Reserve). The North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) submitted the proposed regional Reliability Standard to the Commission for approval. The proposed WECC regional Reliability Standard applies to balancing authorities and reserve sharing groups in the WECC Region and is meant to specify the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions. The Commission also proposes to approve the associated violation risk factors and violation severity levels, implementation plan, and effective date proposed by NERC and WECC. The Commission further proposes to retire the currently-effective WECC regional Reliability Standard BAL–STD–002–0 (Operating Reserves) and to remove two WECC Regional Definitions, ''Non-Spinning Reserve'' and ''Spinning Reserve,'' from the NERC Glossary of Terms. In addition, the Commission proposes to direct NERC to submit an informational filing after the first two years of implementation of the regional Reliability Standard that addresses the adequacy of contingency reserve in the Western Interconnection.

DATES: Comments are due September 23, 2013.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- *Electronic Filing through http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Andrés López Esquerra (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6128, *Andres.Lopez@ferc.gov.*

Matthew Vlissides (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8408, *Matthew.Vlissides@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

Issued July 18, 2013.

1. Under section 215 of the Federal Power Act (FPA), the Commission proposes to approve regional Reliability Standard BAL–002–WECC–2 (Contingency Reserve). The North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) submitted the proposed regional Reliability Standard to the Commission for approval. The proposed WECC regional Reliability Standard applies to balancing authorities and reserve sharing groups in the WECC Region and is meant to specify the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions.

2. The Commission proposes to approve the associated violation risk factors (VRFs) and violation severity levels (VSL), implementation plan, and effective date proposed by NERC and WECC. The Commission also proposes to retire the currently-effective WECC regional Reliability Standard BAL–STD–002–0 (Operating Reserves) and to remove two WECC Regional Definitions, ''Non-Spinning Reserve'' and ''Spinning Reserve,'' from the NERC Glossary of Terms.[1] Further, the Commission proposes to direct NERC to submit an informational filing after the first two years of implementation of the regional Reliability Standard that addresses the adequacy of contingency reserve in the Western Interconnection.

I. Background

A. Mandatory Reliability Standards

3. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards that are subject to Commission review and approval.[2] Once approved, the Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.[3]

4. A Regional Entity may develop a Reliability Standard for Commission approval to be effective in that region only.[4] In Order No. 672, the Commission stated that:

> As a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential and in the public interest, as required under the statute: (1) A regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System.[5]

[70] Effective April 26, 2013, MISO changed its name from ''Midwest Independent Transmission System Operator, Inc.'' to ''Midcontinent Independent System Operator, Inc.''

[1] North American Electric Reliability Corporation Definitions Used in the Rules of Procedure, Appendix 2 to the NERC Rules of Procedure (effective March 5, 2013) (NERC Glossary of Terms).

[2] 16 U.S.C. 824o.

[3] 16 U.S.C. 824o(e).

[4] 16 U.S.C. 824o(e)(4). A Regional Entity is an entity that has been approved by the Commission to enforce Reliability Standards under delegated authority from the ERO. *See* 16 U.S.C. 824o(a)(7) and (e)(4).

[5] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, at P 291, *order on reh'g,*

Continued

5. On April 19, 2007, the Commission accepted delegation agreements between NERC and each of the eight Regional Entities.[6] In the order, the Commission accepted WECC as a Regional Entity.

B. NERC Reliability Standard BAL–002–1 (Disturbance Control Performance)

6. In Order No. 693, the Commission approved NERC Reliability Standard BAL–002–0.[7] On January 10, 2011, the Commission approved a revised version of the NERC Reliability Standard, BAL–002–1 (Disturbance Control Performance), which NERC developed and submitted to address directives contained in Order No. 693.[8] The purpose of NERC Reliability Standard BAL–002–1 is to ensure that a balancing authority is able to use its contingency reserve to balance resources and demand and return Interconnection frequency within defined limits following a Reportable Disturbance.[9]

C. WECC Regional Reliability Standard BAL–STD–002–0

7. On June 8, 2007, the Commission approved WECC regional Reliability Standard BAL–STD–002–0, which is currently in effect.[10] The Commission stated that regional Reliability Standard BAL–STD–002–0 was more stringent than the NERC Reliability Standard BAL–002–0 because the WECC regional Reliability Standard required: (1) A more stringent minimum reserve requirement and (2) restoration of contingency reserves within 60 minutes, as opposed to the 90-minute restoration period required by the NERC Reliability Standard BAL–002–0.[11] The Commission directed WECC to make minor modifications to regional Reliability Standard BAL–STD–002–0. For example, the Commission determined that: (1) Regional definitions should conform to definitions set forth in the NERC Glossary of Terms unless a specific deviation has been justified; and (2) documents that are referenced in the Reliability Standard should be attached to the Reliability Standards. The Commission also found that it is important that regional Reliability Standards and NERC Reliability Standards achieve a reasonable level of consistency in their structure so that there is a common understanding of the elements. Finally, the Commission directed WECC to address stakeholder concerns regarding ambiguities in the terms ''load responsibility'' and ''firm transaction.'' [12]

D. Remanded WECC Regional Reliability Standard BAL–002–WECC–1

8. On March 25, 2009, NERC submitted to the Commission for approval WECC regional Reliability Standard BAL–002–WECC–1 (Contingency Reserves). In Order No. 740, the Commission remanded regional Reliability Standard BAL–002–WECC–1.[13] In Order No. 740, the Commission identified five issues with remanded regional Reliability Standard BAL–002–WECC–1: (1) The restoration period for contingency reserve; (2) the calculation of minimum contingency reserve; (3) the use of firm load to meet the contingency reserve Requirement; (4) the use of demand-side management as a resource; and (5) miscellaneous directives.[14]

1. Restoration Period for Contingency Reserve

9. The Commission stated that, while the currently-effective WECC regional Reliability Standard BAL–STD–002–0 requires restoration of contingency reserve within 60 minutes, the remanded WECC regional Reliability Standard BAL–002–WECC–1 would have extended the restoration period to 90 minutes. The Commission determined that NERC and WECC did not justify the extension of the reserve restoration period from 60 minutes to 90 minutes or that such an extension created an acceptable level of risk within the Western Interconnection.

2. Calculation of Minimum Contingency Reserve

10. The Commission stated that WECC regional Reliability Standard BAL–STD–002–0 currently requires that minimum contingency reserve must equal the greater of: (1) The loss of generating capacity due to forced outages of generation or transmission equipment that would result from the most severe single contingency or (2) the sum of five percent of load responsibility served by hydro generation and seven percent of the load responsibility served by thermal generation. The remanded WECC regional Reliability Standard BAL–002–WECC–1 included a similar requirement, except that instead of basing the calculation of minimum contingency reserve on the sum of five percent of load responsibility served by hydro generation and seven percent of the load responsibility served by thermal generation, the minimum contingency reserve calculation would be based on the sum of three percent of load (generation minus station service minus net actual interchange) plus three percent of net generation (generation minus station service).

11. WECC submitted eight hours of data from each of the four operating seasons (summer, fall, winter, and spring, both on and off-peak), which demonstrated that the proposed methodology for calculating minimum contingency reserve would reduce total contingency reserve required in the Western Interconnection for each of the eight hours assessed when compared with the methodology in the currently-effective WECC regional Reliability Standard BAL–STD–002–0.

12. The Commission accepted WECC's proposal, finding that ''WECC's proposed calculation of minimum contingency reserves is more stringent than the national requirement and could be part of a future proposal that the Commission could find to be just, reasonable, not unduly discriminatory or preferential, and in the public interest.'' [15] The Commission observed, however, that ''WECC also states that the proposed regional Reliability Standard does not excuse any non-performance with the continent-wide Disturbance Control Standard, which requires each balancing authority or reserve sharing group to activate sufficient contingency reserve to comply with the Disturbance Control Standard.'' [16]

13. The Commission also stated that, if WECC resubmitted its proposed methodology for calculating minimum contingency reserve, WECC and NERC could support its proposal with ''audits specifically focused on contingency

Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[6] *North American Electric Reliability Corp.,* 119 FERC ¶ 61,060, *order on reh'g,* 120 FERC ¶ 61,260 (2007).

[7] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[8] *North American Electric Reliability Corp.,* 134 FERC ¶ 61,015 (2011).

[9] The NERC Glossary of Terms defines Contingency Reserve as ''[t]he provision of capacity deployed by the Balancing Authority to meet the Disturbance Control Standard (DCS) and other NERC and Regional Reliability Organization contingency requirements.'' The NERC Glossary of Terms defines Reportable Disturbance as ''[a]ny event that causes an [Area Control Error (ACE)] change greater than or equal to 80% of a Balancing Authority's or reserve sharing group's most severe contingency. The definition of a reportable disturbance is specified by each Regional Reliability Organization. This definition may not be retroactively adjusted in response to observed performance.''

[10] *North American Electric Reliability Corp.,* 119 FERC ¶ 61,260 (2007).

[11] *Id.* P 53.

[12] *Id.* P 56.

[13] *Version One Regional Reliability Standard for Resource and Demand Balancing,* Order No. 740, 75 FR 65,964, 133 FERC ¶ 61,063 (2010).

[14] Order No. 740, 133 FERC ¶ 61,063 at PP 26, 39, 49, 60, 66.

[15] *Id.* P 39.

[16] *Id.*

reserves and whether the balancing authorities are meeting the adequacy and deliverability requirements . . . [t]his auditing also could address the concerns raised by some entities in WECC that the original eight hours of data provided in NERC's petition is insufficient to demonstrate that the proposed minimum contingency reserve requirements are sufficiently stringent to ensure that entities within the Western Interconnection will meet the requirements of NERC's continent-wide Disturbance Control Standard, BAL–002–0.'' [17]

3. Use of Firm Load To Meet Contingency Reserve Requirement

14. In the Notice of Proposed Rulemaking preceding Order No. 740, the Commission stated that, unlike the currently-effective regional Reliability Standard BAL–STD–002–0, the remanded regional Reliability Standard BAL–002–WECC–1 was not technically sound because it allowed balancing authorities and reserve sharing groups within WECC to use firm load to meet their minimum contingency reserve requirements once the reliability coordinator declared a capacity or energy emergency.[18] However, in Order No. 740 the Commission accepted WECC's proposal finding that, although remanded regional Reliability Standard BAL–002–WECC–1 allowed balancing authorities and reserve sharing groups to use ''Load, other than Interruptible Load, once the Reliability Coordinator has declared a capacity or energy emergency,'' these entities would not be authorized to shed firm load unless the applicable reliability coordinator had issued a level 3 energy emergency alert pursuant to Reliability Standard EOP–002–2.1. The Commission directed WECC to develop revised language to clarify this point.[19]

4. Demand-Side Management as a Resource

15. The Commission determined that remanded regional Reliability Standard BAL–002–WECC–1 did not allow demand-side management that is technically capable of providing this service to be used as a resource for contingency reserve. The Commission directed WECC to develop modifications that would explicitly provide that demand-side management technically capable of providing this service may be used as a resource for both spinning and non-spinning contingency reserve.[20]

5. Miscellaneous Directives

16. The Commission directed WECC to consider comments regarding the meaning of the term ''net generation.'' The Commission also directed WECC to consider comments stating that the WECC regional Reliability Standard did not assign any responsibility or obligations on generator owners and generator operators, and that balancing authorities may be required to carry a disproportionate share of the contingency reserve obligation within the Western Interconnection.[21]

E. Proposed Regional Reliability Standard BAL–002–WECC–2

17. On April 12, 2013, NERC and WECC petitioned the Commission to approve proposed regional Reliability Standard BAL–002–WECC–2 and the associated violation risk factors and violation severity levels, effective date, and implementation plan. The petition also requests retirement of the currently-effective WECC regional Reliability Standard BAL–STD–002–0 and removal of two WECC Regional Definitions, ''Non-Spinning Reserve'' and ''Spinning Reserve,'' from the NERC Glossary of Terms. The petition states that the proposed WECC regional Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest because it satisfies the factors set forth in Order No. 672, which the Commission applies when reviewing a proposed Reliability Standard.[22]

18. The petition states that the Resource and Demand Balancing (BAL) group of Reliability Standards ensure that resources and demand are balanced to maintain Interconnection frequency within limits. The petition states that the purpose of NERC Reliability Standard BAL–002–1 (Disturbance Control Performance) is to ensure the balancing authority is able to use contingency reserve to balance resources and demand and return Interconnection frequency within defined limits following a Reportable Disturbance. The petition states that the purpose of the proposed WECC regional Reliability Standard BAL–002–WECC–2 is to provide a regional Reliability Standard that specifies the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions.[23]

19. The petition states that the proposed regional Reliability Standard addresses the five issues identified in Order No. 740, which remanded the previously proposed WECC regional Reliability Standard BAL–002–WECC–1.[24]

20. First, the petition states that proposed regional Reliability Standard BAL–002–WECC–2, Requirement R1, includes a 60-minute restoration period for contingency reserve, which is the same as the currently-effective regional WECC Reliability Standard BAL–STD–002–0.[25]

21. Second, the petition includes two-years of additional data to support the method for calculating minimum contingency reserve proposed in WECC regional Reliability Standard BAL–002–WECC–2, Requirement R1, which is the same as the calculation proposed and accepted by the Commission in the remanded WECC regional Reliability Standard BAL–002–WECC–1.[26]

22. Third, the petition states that the proposed WECC regional Reliability Standard BAL–002–WECC–2, Requirement R1, was modified to clarify that balancing authorities and reserve sharing groups within WECC are subject to the same restrictions regarding the use of firm load for contingency reserve as balancing authorities elsewhere operating under the NERC Reliability Standards. The petition states that it has clarified the connection to the Energy Emergency Level 3 by incorporating language from Reliability Standard EOP–002–2.1, Attachment 1, Section B, into proposed WECC regional Reliability Standard BAL–002–WECC–2, Requirement R1.[27]

23. Fourth, the petition states that proposed WECC regional Reliability Standard BAL–002–WECC–2, Requirement R1, was modified to explicitly provide that demand-side management technically capable of providing the service may be used as a resource for contingency reserve.[28]

24. Fifth, the petition states that proposed WECC regional Reliability Standard BAL–002–WECC–2 replaces the term ''net generation'' with the phrase ''generating energy values average over each Clock Hour.'' The petition states that the proposed regional Reliability Standard also includes a reference to Opinion No. 464, which addresses the issue of behind-the-meter generation, in response to comments raised in the Order No. 740

[17] *Id.* P 40.
[18] *Id.* P 43.
[19] *Id.* PP 48–49.
[20] *Id.* P 61.
[21] *Id.* P 66.
[22] Petition, Exhibit A.
[23] Petition at 2.
[24] *Id.* at 12–18.
[25] *Id.* at 12.
[26] *Id.* at 13–16.
[27] *Id.* at 18.
[28] *Id.* at 16–18.

rulemaking.[29] The petition also states that proposed WECC regional Reliability Standard BAL–002–WECC–2 allows for impacted balancing authorities and reserve sharing groups to enter into transactions to provide contingency reserve for another balancing authority or procure contingency reserve from another balancing authority to more equitably allocate generation for purposes of the reserve calculation. The petition further states that the NERC Functional Model, Version 5, more closely aligns the tasks in the proposed WECC regional Reliability Standard BAL–002–WECC–2 with balancing authorities than to generator operators.[30]

II. Discussion

A. Proposed WECC Regional Reliability Standard BAL–002–WECC–2

25. Pursuant to FPA section 215(d)(2), we propose to approve WECC regional Reliability Standard BAL–002–WECC–2 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. For applicable entities in the WECC Region, proposed WECC regional Reliability Standard BAL–002–WECC–2 specifies the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions. Proposed WECC regional Reliability Standard is more stringent than the NERC Reliability Standard BAL–002–1 because the proposed regional Reliability Standard requires applicable entities to restore contingency reserve within 60 minutes following the Disturbance Recovery Period while the NERC Reliability Standard only requires restoration of contingency reserve within 90 minutes. In addition, the method for calculating minimum contingency reserve in the proposed regional Reliability Standard is more stringent than Requirement R3.1 in the NERC Reliability Standard BAL–002–1 because it requires minimum contingency reserve levels that will be at least equal to the NERC Reliability Standard minimum, equal to the most severe single contingency, and more often will be greater.[31] We also find that NERC and WECC addressed the Commission's directives in Order No. 740.

B. New Methodology of Calculating Minimum Contingency Reserve

26. While we propose to approve WECC regional Reliability Standard BAL–002–WECC–2, the Commission proposes to direct NERC to submit an informational filing following implementation of the proposed regional Reliability Standard that addresses the adequacy of contingency reserve in the Western Interconnection. Proposed WECC regional Reliability Standard BAL–002–WECC–2 includes a new methodology for calculating minimum contingency reserve based on the greater of the most severe single contingency or the sum of three percent of load plus three percent of net generation.

27. In the current WECC regional Reliability Standard BAL–STD–002–0, minimum contingency reserve is based on the greater of the most severe single contingency or the sum of five percent of load responsibility served by hydro generation and seven percent of the load responsibility served by thermal generation. In approving the currently-effective regional Reliability Standard, the Commission noted the importance WECC attached to the current methodology for calculating minimum contingency reserve to reliability in the Western Interconnection:

> According to WECC, while applicable users, owners and operators in the Western Interconnection must comply with BAL–002–0, the corresponding regional Reliability Standard goes further and requires each balancing authority in the West to provide a minimum reserve of five percent of the loads served by hydro generation and seven percent of the loads served by thermal generation. WECC states that this regional minimum reserve requirement was developed to assure that there would be sufficient generation to sustain acceptable power system performance for various contingencies.[32]

28. To support the proposed new methodology for calculation of minimum contingency reserve based on three percent of load plus three percent of net generation, WECC provided ''two years' worth of additional data showing the amount of contingency reserves that would be calculated for each Balancing Authority and Reserve Sharing Group under the proposed methodology.'' [33] WECC states that ''during the two-year period of 2010–2012, the average increase/decrease in Contingency Reserve required under the existing methodology juxtaposed to the proposed methodology was an average decrease of 137 MW across the Western Interconnection.'' [34] WECC explains that the 137 MW decrease represents ''.000932 of WECC's peak load and .001934 of WECC's minimum load'' within that two-year period.[35] Based on the data, WECC states that ''implementation of the proposed methodology will, on average, reduce the amount of Contingency Reserve held within the Interconnection; however, the average change is so small in comparison to the load served within the Interconnection that it should have no adverse impact on reliability.'' [36]

29. While the data submitted in the petition shows *an average* decrease of 137 MW, the data also shows that the largest single decrease in contingency reserve equaled 826 MW during the two-year study period when comparing the current and proposed methodologies.[37] At the time of the 826 MW decrease (i.e., 9/15/10 at 14:00) the contingency reserve value using the current methodology for calculating minimum contingency reserve was 8259 MW versus 7434 MW using the proposed methodology. The 826 MW decrease represents a 10 percent decrease in contingency reserve at that time interval.[38] The data also show a widening gap over time (e.g., a difference of 114 MW at the beginning date but 192 MW at the end date).[39]

30. Recognizing that the new methodology will likely result in lower average contingency reserve levels, the Commission proposes to direct that NERC submit an informational filing to the Commission relating to contingency reserve levels in the Western Interconnection after the first two years of implementation of the proposed regional Reliability Standard. The Commission proposes to direct NERC, in consultation with WECC, to provide an assessment of minimum contingency reserve levels in the Western Interconnection following implementation of the new methodology. The informational filing should assess whether the new methodology for calculating minimum

[29] *California Indep. Sys. Operation Corp.,* Opinion No. 464, 104 FERC ¶ 61,196 (2003).

[30] NERC, Reliability Functional Model, Version 5 (approved May 2010), *available at http://www.nerc.com/files/Functional_Model_V5_Final_2009Dec1.pdf.*

[31] As stated in Order No. 740, the proposed WECC regional Reliability Standard does not excuse non-performance with NERC Reliability Standard BAL–002–1. Order No. 740, 133 FERC ¶ 61,063 at P 39.

[32] *North American Electric Reliability Corp.,* 119 FERC ¶ 61,260 at P 47.

[33] Petition at 13.

[34] *Id.* at 15.

[35] *Id.*

[36] *Id.* at 16.

[37] Petition, Exhibit G (data point at date/time interval 9/15/10 at 14:00).

[38] Petition at 16.

[39] The 114 MW and 192 MW values are calculated by plotting a trend line on the contingency reserve data submitted by WECC using the existing methodology and plotting a trend line on the contingency reserve data submitted by WECC using the proposed methodology. The initial difference between the two trend lines is 114 MW while the difference at the end of the trend lines is 192 MW.

contingency reserve levels has had an adverse impact on reliability in the Western Interconnection. The informational filing should include the data that NERC and WECC use to assess the sufficiency of the minimum contingency reserve levels under the new methodology. Such data could include, but need not be limited to an increase or decrease in the ''Average Percent Non-Recovery Disturbance Control Standards (DCS) Events,''[40] an increase or decrease in the average Contingency Reserve Restoration Period, an increase or decrease in the number of events larger than the minimum contingency reserve levels, and any other information that NERC or WECC deem relevant. The Commission proposes to direct NERC to submit the informational filing to the Commission 90 days after the end of the two-year period following implementation. NERC may choose to submit the informational filing sooner if NERC identifies issues with contingency reserve levels in the Western Interconnection that may require immediate action. The Commission will review the informational filing to determine whether any action is necessary. The Commission seeks comment from NERC, WECC, and interested entities on the proposed informational filing.

C. Violation Risk Factors and Violation Severity Levels

31. The petition states that each Requirement of the proposed WECC regional Reliability Standard BAL–002–WECC–2 includes one violation risk factor and one violation severity level and that the ranges of penalties for violations will be based on the sanctions table and supporting penalty determination process described in the Commission-approved NERC Sanctions Guideline. The Commission proposes to approve the proposed violation risk factors and violation severity levels for the Requirements of WECC regional Reliability Standard BAL–002–WECC–2 as consistent with the Commission's established guidelines.[41]

D. Removal of Terms From NERC Glossary of Terms

32. The petition states that proposed WECC regional Reliability Standard BAL–002–WECC–2 replaces the terms ''Spinning Reserve'' with ''Operating Reserve-Spinning'' and ''Non-Spinning Reserve'' with ''Operating Reserve-Supplemental'' to ensure comparable treatment of demand-side management with conventional generation, or any other technology, and to allow demand-side management to be considered as a resource for contingency reserve. The petition states that Operating Reserve-Spinning and Operating Reserve-Supplemental have glossary definitions that are inclusive of demand-side management, including controllable load. Accordingly, the petition seeks revision of the NERC Glossary of Terms to remove the two WECC Regional Definitions, Non-Spinning Reserve and Spinning Reserve. With the removal of Non-Spinning Reserve and Spinning Reserve from the proposed WECC regional Reliability Standard BAL–002–WECC–2, the Commission proposes to approve removal of those WECC Regional Definitions from the NERC Glossary of Terms.

E. Implementation Plan and Effective Date

33. The petition proposes that WECC regional Reliability Standard BAL–002-WECC–2 become effective on the first day of the third quarter following applicable regulatory approval. The petition states that the proposed WECC regional Reliability Standard may require execution of contracts by some applicable entities before implementation can occur, and the proposed effective date allows time for applicable entities to finalize needed contracts. The petition also proposes to retire the currently-effective WECC regional Reliability Standard BAL–STD–002–0 on the proposed effective date. The Commission proposes to accept the petition's implementation plan and effective date for the proposed WECC regional Reliability Standard BAL–002–WECC–2.

III. Information Collection Statement

34. The following collection of information contained in this Notice of Proposed Rulemaking is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).[42] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[43] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

35. We solicit comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

36. *Public Reporting Burden:* The burden and cost estimates below are based on the need for applicable entities to revise documentation, already required by the current WECC regional Reliability Standard BAL–STD–002–0, to reflect certain changes in the proposed WECC regional Reliability Standard BAL–002–WECC–2. Our estimates are based on the NERC Compliance Registry as of May 30, 2013, which indicates that 36 balancing authorities and reserve sharing groups are registered within WECC.

[40] *See* NERC, Metric AL2–4 (Average Percent Non-Recovery of Disturbance Control Standard (DCS) Events), *available at http://www.nerc.com/pa/RAPA/ri/Pages/DCSEvents.aspx.*

[41] *North American Electric Reliability Corp.,* 135 FERC ¶ 61,166 (2011).

[42] 44 U.S.C. 3507(d).

[43] 5 CFR 1320.11.

Improved requirement	Year	Number of respondents [44] (1)	Number of annual responses per respondent (2)	Average burden hours per response (3)	Estimated total annual burden hours (1)*(2)*(3)
Update Existing Documentation to Conform with Proposed Regional Reliability Standard	1	36	1	[45] 1	36
Total					36

Estimated TotalAnnual Burden Hours for Collection: (Compliance/Documentation) = 36 hours.

Costs to Comply with PRA:

- Year 1: $2,160.
- Year 2 and ongoing: $0.

37. Year 1 costs include updating existing documentation, already required by the current WECC regional Reliability Standard BAL–STD–002–0, to reflect changes in the proposed WECC regional Reliability Standard BAL–002–WECC–2. For the burden category above, the cost is $60/hour (salary plus benefits) for an engineer.[46] The estimated breakdown of annual cost is as follows:

- Year 1
  - Update Existing Documentation to Conform with Proposed Regional Reliability Standard: 36 entities * (1 hours/response * $60/hour) = $2,160.

The Commission seeks comment on the costs estimates to comply with the paperwork requirements in the proposed regional Reliability Standard.

Title: FERC–725E, Mandatory Reliability Standards—WECC (Western Electric Coordinating Council)

Action: Proposed Collection of Information

OMB Control No: 1902–0246

Respondents: Business or other for-profit, and not-for-profit institutions.

Frequency of Responses: One-time.

Necessity of the Information: The proposed regional Reliability Standard BAL–002–WECC–2, if adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the proposal ensures that balancing authorities and reserve sharing groups in the WECC Region have the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions.

Internal review: The Commission has reviewed the proposed regional Reliability Standard BAL–002–WECC–2 and made a determination that its action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

38. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

39. Comments concerning the information collections proposed in this Notice of Proposed Rulemaking and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference OMB Control Number 1902–0244 and the docket numbers of this Notice of Proposed Rulemaking (Docket No. RM13–13–000) in your submission.

IV. Environmental Analysis

40. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[47] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[48] The actions proposed here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

41. The Regulatory Flexibility Act of 1980 (RFA) [49] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. As discussed above, proposed regional Reliability Standard BAL–002–WECC–2 would apply to 36 registered balancing authorities and reserve sharing Groups in the NERC Compliance Registry. Comparison of the NERC Compliance Registry with data submitted to the Energy Information Administration on Form EIA–861 indicates that, of the 36 registered balancing authorities and reserve sharing groups, two may qualify as small entities.[50]

42. The Commission estimates that, on average, each of the two affected small entities will have an estimated cost of $60 in Year 1 and no further ongoing costs. These figures are based on information collection costs plus additional costs for compliance.

43. The Commission does not consider this to be a significant economic impact for small entities because it should not represent a significant percentage of the operating

[44] NERC balancing authorities and reserve sharing groups are responsible for the improved requirement. Further, if a single entity is registered as both a balancing authority and reserve sharing group, that entity is counted as one unique entity.

[45] The Commission bases the hourly reporting burden on the time for an engineer to implement the Requirements of the proposed rule.

[46] Labor rates from Bureau of Labor Statistics (BLS) (*http://bls.gov/oes/current/naics2_22.htm*). Loaded costs are BLS rates divided by 0.703 and rounded to the nearest dollar (*http://www.bls.gov/news.release/ecec.nr0.htm*).

[47] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[48] 18 CFR 380.4(a)(2)(ii).

[49] 5 U.S.C. 601–612.

[50] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act (SBA), which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. *See* 15 U.S.C. 632 (2006). According to the Small Business Administration, an electric utility is defined as ''small'' if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.

budget. Accordingly, the Commission certifies that this proposed rulemaking will not have a significant economic impact on a substantial number of small entities. The Commission seeks comment on this certification.

VI. Comment Procedures

44. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due September 23, 2013. Comments must refer to Docket No. RM13–13–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

45. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

46. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

47. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

48. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

49. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

50. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–17816 Filed 7–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1240

[Docket No. FDA–2013–N–0639]

Turtles Intrastate and Interstate Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations regarding the prohibition on the sale, or other commercial or public distribution, of viable turtle eggs and live turtles with a carapace length of less than 4 inches to remove procedures for destruction as FDA believes it is not necessary to routinely demand this destruction to achieve the purpose of the regulations. This action would reduce the need for investigator training and the time for the care and humane destruction of these animals.

DATES: Submit either electronic or written comments by October 8, 2013. If FDA receives any significant adverse comments, the Agency will publish a document withdrawing the direct final rule within 30 days after the comment period ends. FDA will then proceed to respond to comments under this proposed rule using the usual notice and comment procedures.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2013–N–0639, by any of the following methods:

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 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 and Docket No. FDA–2013–N–0639 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional instructions 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.

FOR FURTHER INFORMATION CONTACT: Dillard Woody, Center for Veterinary Medicine (HFV–231), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9237, email: *dillard.woody@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA published regulations in § 1240.62 (21 CFR 1240.62) on May 23, 1975 (40 FR 22543), that ban the sale and distribution of viable turtle eggs and turtles with a carapace length of less than 4 inches to stop the spread of turtle-associated salmonellosis in humans, especially in young children.

The regulations provide that viable turtle eggs and live turtles with a carapace length of less than 4 inches shall not be sold, held for sale, or offered for any other type of commercial or public distribution. The ban does not apply to such distribution for bona fide scientific, educational, or exhibitional purposes other than use as pets; to such distribution not in connection with a business; and to such distribution intended for export only. In addition, the turtle ban does not apply to marine turtles and their eggs.

The regulations further provide that any turtle eggs or live turtles with a carapace length of less than 4 inches

that are held for sale or offered for any other type of commercial or public distribution in violation of the regulations shall be subject to destruction in a humane manner by or under the supervision of an officer or employee of FDA, in accordance with specified procedures. Once a written demand for destruction is served, the rule prohibits the selling, distributing, or otherwise disposing of the viable turtle eggs or live turtles in a manner other than destroying them under FDA supervision.

FDA is proposing to amend the regulations to remove the provisions making violative turtle eggs and live turtles routinely subject to destruction by or under the supervision of an officer or employee of FDA. FDA does not believe that it is necessary to routinely demand destruction of viable turtle eggs and live turtles with a carapace length of less than 4 inches. FDA believes that other activities would achieve the purpose of the regulations, which were enacted to prevent the spread of turtle-associated salmonellosis, especially to young children. These other alternatives include: Raising the turtles until the turtles achieve a carapace length of 4 inches or greater; donating the viable turtle eggs or live turtles to an entity that meets one of the bona fide scientific, educational, or exhibitional exemptions, as provided in the regulations; or exporting the turtles in compliance with all applicable laws.

Although FDA does not believe it is necessary to routinely demand destruction of viable turtle eggs and live turtles with a carapace length of less than 4 inches, as provided for in the regulations, FDA recognizes that it has the authority and obligation to take appropriate measures to prevent the spread of communicable disease, especially in the face of widespread outbreaks or other public health emergencies. FDA would retain the authority to destroy or order the destruction of viable turtle eggs or live turtles of any size under 21 CFR 1240.30, which provides that, ''[w]henever the Commissioner of Food and Drugs determines that the measures taken by health authorities of any State or possession (including political subdivision thereof) are insufficient to prevent the spread of any of the communicable diseases . . . he may take such measures to prevent such spread of the diseases as he deems reasonably necessary, including . . . destruction of animals or articles believed to be sources of infection.''

This proposed rule would not affect the ban on the sale of viable turtle eggs and live turtles with a carapace length of less than 4 inches. Those provisions of the regulations would remain in effect. Violators would still be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, for each violation, in accordance with section 368 of the Public Health Service Act (the PHS Act) (42 U.S.C. 271).

II. Companion Document to Direct Final Rulemaking

This proposed rule is a companion to the direct final rule published elsewhere in this issue of the **Federal Register**. FDA proposes to amend § 1240.62 by removing the provisions making viable turtle eggs and live turtles with a carapace length of less than 4 inches that are held for sale or offered for any other type of commercial or public distribution in violation of the regulations routinely subject to destruction and the associated required procedures. This proposed rule is intended to make noncontroversial changes to existing regulations. The Agency does not anticipate receiving any significant adverse comment on this rule.

Consistent with FDA's procedures on direct final rulemaking, we are publishing elsewhere in this issue of the **Federal Register** a companion direct final rule. The direct final rule and this companion proposed rule are substantively identical. This companion proposed rule provides the procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of any significant adverse comment. The comment period for this proposed rule runs concurrently with the comment period of the companion direct final rule. Any comments received in response to the companion direct final rule will also be considered as comments regarding this proposed rule.

FDA is providing a comment period for the proposed rule of 75 days after the date of publication in the **Federal Register**. If FDA receives a significant adverse comment, we intend to withdraw the direct final rule before its effective date by publication of a notice in the **Federal Register** within 30 days after the comment period ends. A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants withdrawing a direct final rule, the Agency will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553).

Comments that are frivolous, insubstantial, or outside the scope of the proposed rule will not be considered significant or adverse under this procedure. For example, a comment recommending a regulation change in addition to those in the proposed rule would not be considered a significant adverse comment unless the comment states why the proposed rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to an amendment, paragraph, or section of this proposed rule and that provision can be severed from the remainder of the rule, FDA may adopt as final those provisions of the proposed rule that are not the subject of a significant adverse comment.

If FDA does not receive significant adverse comment in response to the proposed rule, the Agency will publish a document in the **Federal Register** confirming the effective date of the final rule. The Agency intends to make the direct final rule effective 30 days after publication of the confirmation document in the **Federal Register**.

A full description of FDA's policy on direct final rule procedures may be found in a guidance document published in the **Federal Register** of November 21, 1997 (62 FR 62466). The guidance document may be accessed at *http://www.fda.gov/RegulatoryInformation/Guidances/ucm125166.htm.*

III. Legal Authority

FDA is issuing this proposed rule under the public health provisions of the PHS Act. Section 361 of the PHS Act (42 U.S.C. 264) allows the Secretary of the Department of Health and Human Services to make and enforce regulations that are necessary ''to prevent the introduction, transmission, or spread of communicable diseases.''

IV. Environmental Impact

FDA has determined under 21 CFR 25.32(g) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Preliminary Regulatory Impact Analysis

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). The Agency believes that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed rule would not affect the ban on the sale of viable turtle eggs and live turtles with a carapace length of less than 4 inches. Since it would allow for, but not require, a change in the disposition of any seized turtles or eggs, it would not impose any additional compliance costs. Further, it could result in a small savings to the Agency from reduced investigator training for the care and humane destruction of these animals. The Agency proposes to certify that the proposed rule if finalized would not have a significant economic impact on a substantial number of small entities.

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 $141 million, using the most current (2012) 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.

VI. Federalism

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

VII. Paperwork Reduction Act of 1995

This proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. 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.*

List of Subjects in 21 CFR Part 1240

Communicable diseases, Public health, Travel restrictions, Water supply.

Therefore under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 1240 be amended as follows:

PART 1240—CONTROL OF COMMUNICABLE DISEASES

■ 1. The authority citation for 21 CFR part 1240 continues to read as follows:

Authority: 42 U.S.C. 216, 243, 264, 271.

§ 1240.62 [Amended]

■ 2. In § 1240.62, remove paragraph (c) and redesignate paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

Dated: July 16, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–17752 Filed 7–24–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG–2013–0018]

RIN 1625–AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish and modify anchorage grounds within the Port of New York. This action is necessary to facilitate safe navigation and provide safe and secure anchorages for vessels operating in the area. This proposed rule is intended to increase the safety of life and property of both the anchored vessels and those operating in the area as well as provide for the overall safe and efficient flow of commerce.

DATES: Comments and related material must be received by the Coast Guard on or before September 23, 2013. Requests for public meetings must be received by the Coast Guard on or before August 15, 2013.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jeff Yunker, Sector New York, Waterways Management Division, U.S. Coast Guard; telephone 718–354–4195, E-Mail *Jeff.M.Yunker@uscg.mil* or Chief Craig Lapiejko, Coast Guard First District Waterways Management Branch, telephone 617–223–8385, E-Mail *Craig.D.Lapiejko@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara

Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
WAMS Waterways Analysis and Management System

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–0018] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0018) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before August 15, 2013, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The legal basis for this rule is: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define anchorage grounds.

This proposal was assessed as part of a Waterways Analysis and Management System (WAMS) review of the New York Vessel Traffic Lanes and Approaches to New York Harbor with the intent of optimizing the waterway and aids to navigation. The Coast Guard received six responses to the survey included in the WAMS review. The survey responses reported that Anchorage Ground No. 27(ii) Romer Shoal and Anchorage Ground No. 27(iii) Flynns Knoll, near Sandy Hook, NJ are not used because their locations leave vessels exposed to swells and that there are safer anchorage grounds available in Lower New York and Sandy Hook Bays.

The New York District Army Corps of Engineers (ACOE) was consulted on this regulation and had no objections.

In addition, the Hudson River Pilots Association requested the Coast Guard establish a federal anchorage ground near Yonkers, NY on the Hudson River.

The purpose of this rule is to accommodate ship traffic awaiting berthing space, favorable weather, daylight hours, tidal conditions for transits, and/or other unforeseen conditions to improve navigation safety; clarify positions of current areas being used for vessels anchoring; and reduce regulatory burden by disestablishing anchorage grounds that are no longer used and therefore deemed unnecessary.

C. Discussion of Proposed Rule

We propose to establish a new Anchorage Ground No. 18 in the Hudson River west of Yonkers, NY. The anchorage ground would be approximately 0.22 square nautical miles (2,010 yards long by 420 to 470 yards wide). The eastern boundary of this anchorage ground would be about 470 yards west of the Yonkers Municipal Pier. The Hudson River Pilots requested this anchorage ground be established for the following reasons: a) for vessels waiting favorable tides and/or daylight to transit to upstream ports on the Hudson River, b) for vessels waiting anchorage space in New York Harbor to take on bunker fuel and/or stores, and c) to relieve congestion in New York Harbor anchorage grounds. The proposed anchorage ground would formalize and codify the current anchoring practices of commercial vessels in Yonkers, NY. The anchorage ground would adequately accommodate two ships at a time and would provide sufficient maneuvering clearance for ships entering or departing the anchorage ground. An area approximately 1,030 feet east of this anchorage ground would be in place for vessels to transit and still not interfere with the U.S. Army Corps of Engineers New York District designated 600 foot wide federal navigation channel. This anchorage ground would only be authorized for usage by ships.

We propose to reduce the size of the current Anchorage Ground No. 17 by an area of approximately 0.07 square nautical miles (910 yards long by 300 yards wide). This proposed reduction at the northeast corner of the current Anchorage Ground No. 17 is intended to limit confusion caused by the overlapping of the southwest corner of the proposed new Anchorage Ground No. 18 with the current northeast corner of Anchorage Ground No. 17.

We propose to update the description of the Anchorage Ground No. 27(i) boundary in the Atlantic Ocean. This is necessary due to the disestablishment of Sandy Hook Light 15, which was used as a reference point. We would update the other anchorage ground coordinates to correspond to what is currently displayed on the navigation charts. Additionally, we would re-designate the anchorage ground as Anchorage Ground No. 27 due to the proposed disestablishment of Anchorage Ground No. 27(ii) at 33 CFR 110.155(f)(2)(ii) and Anchorage Ground No. 27(iii) at 33 CFR 110.155(f)(2)(iii).

We propose to disestablish Anchorage Ground No. 27(ii) Romer Shoal and Anchorage Ground No. 27(iii) Flynns Knoll, near Sandy Hook, NJ. The irregular shaped area of Anchorage Ground No. 27(ii) Romer Shoal is about 4.08 square nautical miles (5.5 nautical miles long by 0.3 to 1.3 nautical miles wide). The irregular bowl-shaped area of Anchorage Ground No. 27(iii) Flynns Knoll is about 3.35 square nautical miles. These proposals were reviewed as part of a Waterways Analysis and Management System (WAMS) review of the New York Vessel Traffic Lanes and Approaches to New York Harbor with the intent of optimizing the waterway and the aids to navigation therein. The Coast Guard received six responses to the survey included in the WAMS review. The survey responses reported that these two anchorage grounds are not used because their locations leave vessels exposed to swells and there are safer anchorage grounds available in the Lower New York and Sandy Hook Bays. These anchorage grounds provide better protection from impacts of winds and seas on anchored vessels than the offshore Anchorage Grounds No. 27(ii) and No. 27(iii).

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect minimal additional cost impacts to the industry because this rule is not imposing fees, permits, or specialized requirements for the maritime industry to utilize these anchorage grounds. The effect of this rule would not be significant as it removes two obsolete anchorage grounds that are no longer used and codifies one anchorage ground that is currently used by commercial vessels as a general anchorage area. This would represent an improvement to the safety of vessels using the anchorage grounds, facilitate the transit of deep draft vessels through the adjoining waterways, and increase mariner awareness that they can expect to find anchored vessels in the vicinity.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels that have a need to anchor or transit through the lower Hudson River near Yonkers, NY; and Lower New York Bay near Romer Shoal and Flynns Knoll near Sandy Hook, NJ.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: This rule would only codify current navigation practices already in use by commercial vessels in these areas. The anchorage grounds would not affect vessels' schedules or their abilities to freely transit near these areas within the Captain of the Port New York zone. The anchorage grounds would not impose any monetary expenses on small entities because it does not require them to purchase any new equipment, hire additional crew, or make any other expenditures.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves disestablishing two unused anchorage grounds, establishing one anchorage ground, updates the coordinates of one anchorage ground, and reduces the size of one anchorage ground resulting in a reduction in the overall size of the anchorage grounds by 7.28 square nautical miles in the Captain of the Port New York zone. This rule may be categorically excluded from further review under paragraph 34(f) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471; 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 110.155 revise paragraphs (c) and (f) to read as follows:

§ 110.155 Port of New York.

* * * * *

(c) * * *

(2) Anchorage No. 17. All waters of the Hudson River bound by the following points: 40°56′26.66″ N, 073°55′12.06″ W; thence to 40°56′22.54″ N, 073°54′49.77″ W; thence to 40°55′56.00″ N, 073°54′58.00″ W; thence to 40°55′54.15″ N, 073°54′46.96″ W; thence to 40°54′18.43″ N, 073°55′21.12″ W; thence to 40°52′27.59″ N, 073°56′14.32″ W; thence to 40°51′34.20″ N, 073°56′52.64″ W; thence to 40°51′20.76″ N, 073°57′31.75″ W; thence along the shoreline to the point of origin (NAD 83).

(i) When the use of Anchorage No. 17 is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(ii) [Reserved]

(3) * * *

(4) Anchorage No. 18. All waters of the Hudson River bound by the following points: 40°56′54.0″ N, 073°54′40.0″ W; thence to 40°56′51.0″ N, 073°54′24.0″ W; thence to 40°55′53.0″ N, 073°54′40.0″ W; thence to 40°55′56.0″ N, 073°54′58.0″ W; thence to the point of origin (NAD 83).

(i) This anchorage ground is reserved for use by ships only.

(ii) [Reserved]

* * * * *

(f) * * *

(2) Anchorage No. 27. Atlantic Ocean—

(i) All waters bound by the following points: 40°28′49.27″ N, 074°00′12.13″ W; thence to 40°28′52.12″ N, 074°00′00.56″ W; thence to 40°28′40.88″ N, 073°58′51.95″ W; thence to 40°25′57.91″ N, 073°54′55.56″ W; thence to 40°23′45.55″ N, 073°54′54.89″ W; thence to 40°23′45.38″ N, 073°58′32.10″ W; thence along the shoreline to the point of origin (NAD 83).

(ii) [Reserved]

(iii) [Reserved]

* * * * *

Dated: July 2, 2013.

V.B. Gifford,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2013–17921 Filed 7–24–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 679

[Docket No. 101027534–3546–01]

RIN 0648–BA37

Pacific Halibut Fisheries; Catch Sharing Plan for Guided Sport and Commercial Fisheries in Alaska; Extension of Comment Period

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

ACTION: Proposed rule, extension of comment period.

SUMMARY: NMFS is extending the date by which public comments are due concerning proposed regulations to implement a catch sharing plan for the guided sport and commercial fisheries for Pacific halibut in waters of International Pacific Halibut Commission (IPHC) Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). NMFS published the proposed rule on June 28, 2013, and announced that the public comment period would end on August 12, 2013. With this notice, NMFS is extending the comment period to August 26, 2013, to provide additional time for stakeholders

and other members of the public to submit comments.

DATES: The public comment period for the proposed rule published at 78 FR 39122, June 28, 2013, is extended from August 12, 2013, until August 26, 2013. Comments must be received no later than August 26, 2013.

ADDRESSES: You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2011-0180, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA–NMFS–2011–0180,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.
- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS at the above address and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Julie Scheurer, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

On June 28, 2013, NMFS published a proposed rule at 78 FR 39122, that would implement a catch sharing plan for the guided sport and commercial fisheries for Pacific halibut in waters of IPHC Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). The proposed catch sharing plan will change the annual process of allocating halibut between the guided sport and commercial fisheries in Area 2C and Area 3A, establish allocations for each sector, and specify a method for setting harvest restrictions for guided sport anglers that are intended to limit harvest to the annual guided sport fishery catch limit. The proposed catch sharing plan also will authorize annual transfers of commercial halibut quota to charter halibut permit holders for harvest in the guided sport fishery.

Public Comment Extension

NMFS is extending the public comment period until August 26, 2013. NMFS received several requests to extend the comment period on the proposed rule due to overlap with the recreational halibut fishing season and the complexity of the proposed catch sharing plan. Most commenters requested a 45-day extension. We have considered these comments and conclude that a 14-day extension should allow sufficient time for the public to review and comment on the proposed rule without significantly delaying the rulemaking process.

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

Dated: July 22, 2013.

Alan D. Risenhoover,

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

[FR Doc. 2013–17905 Filed 7–24–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 143

Thursday, July 25, 2013

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

DEPARTMENT OF AGRICULTURE

Notice of an Education Listening Session Meeting

SUMMARY: The Education Coordinating Committee, a body of the United States Department of Agriculture (USDA) Science Council announces an Education Listening Session stakeholder meeting for all interested agricultural education stakeholders.

DATES: The Education Listening Session will be held August 1, 2013. The public may file written comments up to one week after the meeting with the Contact Person.

ADDRESSES: The meeting will take place at the Jamie L. Whitten Federal Building, 1400 Independence Avenue SW., Washington, DC 20250. Written comments from the public may be emailed to the Contact Person identified in this notice.

FOR FURTHER INFORMATION CONTACT: Jenna Jadin, Advisor, Office of the Chief Scientist; telephone: (202) 260–8318; or email: *Jenna.Jadin@osec.usda.gov*

SUPPLEMENTARY INFORMATION: The Under Secretary of Research, Education, and Economics, Dr. Catherine Woteki, and the Deputy Under Secretary of Research, Education, and Economics (REE), Ann Bartuska, have been invited to provide brief remarks and welcome stakeholders during the meeting.

On Thursday, August 1, 2013, the listening session will be held from 9:00 a.m.–5:30 p.m. in room 107–A of the Jamie L. Whitten building. Specific topics of discussion in the morning session will include an introduction to the education programs of all of USDA's mission areas, and information on how USDA is fitting in to the broader Federal Science, Technology, Engineering, and Mathematics (STEM) education rearrangement.

In the late morning, the audience will listen to 10 minute presentations from stakeholders that discuss their education programs and their perception of needs and potential improvements in the field of agricultural education. Following lunch, stakeholder presentations will continue, and will be followed by a breakout group session in which participants will be asked to discuss, in small groups, a set of questions posed by the organizers which are aimed at getting feedback on agricultural and related education needs. The meeting will adjourn by 5:30 p.m.

All stakeholders are welcome to apply for a 10-minute presentation slot, however, due to time constraints, a limited number will be selected on a first come, first served basis. To apply for a slot, please email the Contact Person listed above. All presentations may be simple oral presentations or given in PowerPoint, however, the organizers request that a written transcript of the talk be submitted no later than one week after the event. Written comments by attendees or other interested stakeholders will be welcomed before and up to one week following the listening session (by close of business Thursday, August 8, 2013). All statements will become a part of the official record of the Education Coordinating Committee of the USDA Science Council and will be kept on file in the Office of the Chief Scientist.

All parties interested in attending this event must RSVP no later than July 24, 2013 to the Contact Person listed above.

Due to size constraints in the meeting room, only the first 70 responders will be accepted.

Done at Washington, DC this 18th day of July 2013.

Catherine E. Woteki,

Under Secretary, REE, Chief Scientist, USDA.

[FR Doc. 2013–17888 Filed 7–24–13; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–12–0073; FV13–901–1]

Vegetable and Specialty Crop Marketing Orders; Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved generic information collection for vegetables and specialty crop marketing order programs.

DATES: Comments on this notice must be received by September 23, 2013 to be assured of consideration.

Additional Information or Comments: Contact Andrew Hatch, Supervisory Marketing Specialist, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Room 1406–S, Washington, DC 20250–0237; Telephone: (202) 720–6862, Fax: (202) 720–8938, or Email: *andrew.hatch@ams.usda.gov.*

Small businesses may request information on this notice by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Room 1406–S, Washington, DC 20250–0237; Telephone (202) 720–9914, Fax: (202) 720–8938, or Email: *jeffrey.smutny@ams.usda.gov.*

Comments: Comments should reference the document number and the date and page number of this issue of the **Federal Register**, and be mailed to the Docket Clerk, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Washington, DC 20250–0237; Fax: (202) 720–8938); or submitted through the Internet at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Title: Vegetable and Specialty Crop Marketing Orders.

OMB Number: 0581–0178.

Expiration Date of Approval: February 28, 2014.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruit, vegetables, and specialty crops, in specified production areas, to work together to solve marketing problems that cannot be solved individually. This notice covers the

following marketing order program citations: 7 CFR parts 932 (California olives), 945 (Idaho/Oregon potatoes), 946 (Washington potatoes), 947 (Oregon/California potatoes), 948 (Colorado potatoes), 953 (North Carolina/Virginia potatoes), 955 (Vidalia onions), 956 (Walla Walla onions), 958 (Idaho/Oregon onions), 959 (South Texas onions), 966 (Florida tomatoes), 981 (California almonds), 982 (Oregon/Washington hazelnuts), 984 (California walnuts), 985 (Northwest spearmint oil), 987 (California dates), 989 (California raisins), 993 (California dried prunes), and 999 (Specialty Crop Import Regulation).

Currently, the following marketing orders are suspended at the respective industry's request, meaning their handling regulations and most of their information collection requirements are not active: 947 (Oregon/California potatoes); 953 (North Carolina/Virginia potatoes); and 993 (California dried prunes). The industries are in the process of determining whether to reactivate or permanently terminate their marketing order. In addition, the import regulation for California dried prunes, as contained in 7 CFR 999.200—Regulation governing the importation of prunes—is indefinitely suspended, effective January 17, 2009 (**Federal Register**, Vol. 74 No. 11).

Order regulations help ensure adequate supplies of high quality products for consumers and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture (Secretary) is authorized to oversee the order operations and issue regulations recommended by a committee or board of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the marketing orders. Under the Act, orders may authorize: Production and marketing research including paid advertising, volume regulations, reserves, including pools and producer allotments, container regulations, and quality control. Assessments are levied on handlers regulated under the marketing orders. Also pursuant to Section 8e of the Act, importers of raisins, dates, and dried prunes are required to submit certain information.

USDA requires several forms to be filed in order to enable the administration of each marketing order. These include forms covering the selection process for industry members to serve on a marketing order's committee or board and ballots used in referenda to amend or continue marketing order programs.

Under Federal marketing orders, producers and handlers are nominated by their peers to serve as representatives on a committee or board which administers each program. Nominees must provide information on their qualifications to serve on the committee or board. Nominees are selected by the Secretary. Formal rulemaking amendments must be approved in referenda conducted by USDA and the Secretary. For the purposes of this action, ballots are considered information collections and are subject to the Paperwork Reduction Act. If an order is amended, handlers are asked to sign an agreement indicating their willingness to abide by the provisions of the amended order.

Some forms are required to be filed with the committee or board. The orders and their rules and regulations authorize the respective commodities' committees and boards, the agencies responsible for local administration of the orders, to require handlers and producers to submit certain information. Much of the information is compiled in aggregate and provided to the respective industries to assist in marketing decisions. The committees and boards have developed forms as a means for persons to file required information relating to supplies, shipments, and dispositions of their respective commodities, and other information needed to effectively carry out the purpose of the Act and their respective orders, and these forms are utilized accordingly.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the orders, and their use is necessary to fulfill the intent of the Act as expressed in the orders and the rules and regulations issued under the orders.

The information collected is used only by authorized employees of the committees and boards and authorized representatives of the USDA, including AMS, Fruit and Vegetable Program's regional and headquarters staff. Authorized committee/board employees are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.10 hours per response.

Respondents: Producers, handlers, processors, dehydrators, cooperatives, manufacturers, importers, and public members.

Estimated Number of Respondents: 20,626.

Estimated Number of Total Annual Responses: 174,142.

Estimated Number of Responses per Respondent: 8.47

Estimated Total Annual Burden on Respondents: 17,498.50 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. All comments received will be available for public inspection at the street address in the ''Comment'' section and can be viewed at: *www.regulations.gov.*

Dated: July 17 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–17831 Filed 7–24–13; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Agriculture Research Service

Notice of Intent to Seek Approval To Collect Information

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the U.S. Department of Agriculture, Agricultural Research Service, National Agricultural Library's (NAL) intent to request the approval of the Food Safety Education and Training Materials Sharing form from people who work in the food safety education and training fields.

DATES: Comments on this notice must be received by September 23, 2013 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Tara Smith, USDA, Agriculture Research Service, National Agricultural Library, 10301 Baltimore Avenue, Room 108–B, Beltsville, Maryland 20705. Comments may be sent by fax to (301) 504–6409, or by email to *tara.smith@ars.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Tara Smith, telephone (301) 504–5515.

SUPPLEMENTARY INFORMATION:

Title: Food Safety Education and Training Materials Sharing Form

Authority: Pub. L. 104–13; 5 CFR Part 1320 (60 FR 44978, August 29, 1995)

OMB Number: OMB control number is 0518–0046.

Expiration Date: Three years from the date of approval.

Type of Request: Approval for data collection from individuals working in the areas of food safety education and training.

Abstract: The Food Safety Education and Training Materials Sharing form contains three sections and is used to collect information about materials developed to support food safety education (e.g. DVDs, posters, curriculum, kits) for inclusion in NAL's Food Safety Education and Training Materials Database. The questionnaire collects the name and email address of the person submitting the form, information on the resource/education material developed (e.g. title, target audience focus, a description, publisher/distributor information and information on the author) to determine if a readability formula was used or if the project is associated with a grant or other funded mechanism.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per respondent.

Respondents: Individuals working in the areas of food safety education and training.

Estimated Number of Respondents: 35 per year.

Estimated Total Annual Burden on Respondents: 525 minutes or 8.75 hours.

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: July 16, 2013.

Caird E. Rexroad, Jr.,

Associate Administrator, ARS.

[FR Doc. 2013–17887 Filed 7–24–13; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0035]

Monsanto Co.; Availability of Plant Pest Risk Assessment, Environmental Assessment, Preliminary Finding of No Significant Impact, and Preliminary Determination of Nonregulated Status of Canola Genetically Engineered for Herbicide Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a preliminary determination regarding a request from the Monsanto Company seeking a determination of nonregulated status of canola designated as MON 88302, which has been genetically engineered for resistance to the herbicide glyphosate with more flexibility in the timing of herbicide application. We are also making available for public review our plant pest risk assessment, environmental assessment, and preliminary finding of no significant impact for the preliminary determination of nonregulated status.

DATES: We will consider any information that we receive on or before August 26, 2013.

ADDRESSES: You may submit any information by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0035.*
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2012–0035, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents for this petition and any other information we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0035* 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.

Supporting documents for this petition are also available on the APHIS Web site at *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS Petition Number 11–188–01p.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Stankiewicz Gabel, Chief, Biotechnology Environmental Analysis Branch, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3927, email: *rebecca.l.stankiewicz-gabel@aphis.usda.gov.* To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. APHIS received a petition (APHIS Petition Number 11–188–01p) from the Monsanto Company (Monsanto) of St. Louis, MO, seeking a determination of nonregulated status of canola (*Brassica napus*) designated as event MON 88302,

which has been genetically engineered for resistance to the herbicide glyphosate with more flexibility in the timing of herbicide application. The petition stated that this canola is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

According to our process [1] for soliciting public comment when considering petitions for determinations of nonregulated status of GE organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. In a notice [2] published in the **Federal Register** on July 13, 2012, (77 FR 41357–41358, Docket No. APHIS–2012–0035), APHIS announced the availability of the Monsanto petition for public comment. APHIS solicited comments on the petition for 60 days ending on September 11, 2012, in order to help identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition.

APHIS received 67 comments on the petition. Several of these comments included electronic attachments consisting of a document of identical or nearly identical letters, for a total of 4,670 comments on the petition. Issues raised during the comment period include effects of herbicide use, such as the development of herbicide-resistant weeds and effects on non-target organisms, gene flow, and effects on organic crop production. APHIS has evaluated the issues raised during the comment period and, where appropriate, has provided a discussion of these issues in our environmental assessment (EA).

After public comments are received on a completed petition, APHIS evaluates those comments and then provides a second opportunity for public involvement in our decisionmaking process. According to our public review process (see footnote 1), the second opportunity for public involvement follows one of two approaches, as described below.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises no substantive new issues, APHIS will follow Approach 1 for public involvement. Under Approach 1, APHIS announces in the **Federal Register** the availability of APHIS' preliminary regulatory determination along with its EA, preliminary finding of no significant impact (FONSI), and its plant pest risk assessment (PPRA) for a 30-day public review period. APHIS will evaluate any information received related to the petition and its supporting documents during the 30-day public review period. For this petition, we are using Approach 1.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises substantive new issues, APHIS will follow Approach 2. Under Approach 2, APHIS first solicits written comments from the public on a draft EA and PPRA for a 30-day comment period through the publication of a **Federal Register** notice. Then, after reviewing and evaluating the comments on the draft EA and PPRA and other information, APHIS will revise the PPRA as necessary and prepare a final EA and, based on the final EA, a National Environmental Policy Act (NEPA) decision document (either a FONSI or a notice of intent to prepare an environmental impact statement).

As part of our decisionmaking process regarding a GE organism's regulatory status, APHIS prepares a PPRA to assess the plant pest risk of the article. APHIS also prepares the appropriate environmental documentation—either an EA or an environmental impact statement—in accordance with NEPA, to provide the Agency and the public with a review and analysis of any potential environmental impacts that may result if the petition request is approved.

APHIS has prepared a PPRA and has concluded that canola event MON 88302 is unlikely to pose a plant pest risk. In section 403 of the Plant Protection Act, ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.

APHIS has prepared an EA in which we present two alternatives based on our analysis of data submitted by Monsanto, a review of other scientific data, field tests conducted under APHIS oversight, and comments received on the petition. APHIS is considering the following alternatives: (1) Take no action, i.e., APHIS would not change the regulatory status of canola event MON 88302 and it would continue to be a regulated article, or (2) make a determination of nonregulated status of canola event MON 88302.

The EA was prepared in accordance with (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our EA and other pertinent scientific data, APHIS has reached a preliminary FONSI with regard to the preferred alternative identified in the EA.

Based on APHIS' analysis of field and laboratory data submitted by Monsanto, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, comments provided by the public on the petition, and discussion of issues in the EA, APHIS has determined that canola event MON 88302 is unlikely to pose a plant pest risk. We have therefore reached a preliminary decision to make a determination of nonregulated status of canola event MON 88302, whereby canola event MON 88302 would no longer be subject to our regulations governing the introduction of certain GE organisms.

We are making available for a 30-day review period APHIS' preliminary regulatory determination of canola event MON 88302, along with our PPRA, EA, and preliminary FONSI for the preliminary determination of nonregulated status. The EA, preliminary FONSI, PPRA, and our preliminary determination for canola event MON 88302, as well as the Monsanto petition and the comments received on the petition, are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. Copies of these documents may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

After the 30-day review period closes, APHIS will review and evaluate any information received during the 30-day review period. If, after evaluating the information received, APHIS determines that we have not received substantive new information that would warrant

[1] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for GE organisms. To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129.*

[2] To view the notice, the petition, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0035.*

APHIS altering our preliminary regulatory determination or FONSI, substantially changing the proposed action identified in the EA, or substantially changing the analysis of impacts in the EA, APHIS will notify the public through an announcement on our Web site of our final regulatory determination. If, however, APHIS determines that we have received substantive new information that would warrant APHIS altering our preliminary regulatory determination or FONSI, substantially changing the proposed action identified in the EA, or substantially changing the analysis of impacts in the EA, then APHIS will notify the public of our intent to conduct additional analysis and to prepare an amended EA, a new FONSI, and/or a revised PPRA, which would be made available for public review through the publication of a notice of availability in the **Federal Register**. APHIS will also notify the petitioner.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 19th day of July 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–17933 Filed 7–24–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0027]

Monsanto Co.; Availability of Plant Pest Risk Assessment, Environmental Assessment, Preliminary Finding of No Significant Impact, and Preliminary Determination of Nonregulated Status of Maize Genetically Engineered With Tissue-Selective Glyphosate Resistance Facilitating the Production of Hybrid Maize Seed

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a preliminary determination regarding a request from the Monsanto Company seeking a determination of nonregulated status of maize designated as MON 87427, which has been genetically engineered with tissue-selective resistance to glyphosate in order to facilitate the production of hybrid maize seed. We are also making available for public review our plant pest risk assessment, environmental assessment, and preliminary finding of no significant impact for the preliminary determination of nonregulated status.

DATES: We will consider any information that we receive on or before August 26, 2013.

ADDRESSES: You may submit any information by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0027.*
- *Postal Mail/Commercial Delivery:* Send your information to Docket No. APHIS–2012–0027, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents for this petition and any other information we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0027* 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.

Supporting documents for this petition are also available on the APHIS Web site at *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS Petition Number 10–281–01p.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Stankiewicz Gabel, Chief, Biotechnology Environmental Analysis Branch, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3927, email: *rebecca.l.stankiewicz-gabel@aphis.usda.gov.* To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. APHIS received a petition (APHIS Petition Number 10–281–01p) from the Monsanto Company (Monsanto) of St. Louis, MO, seeking a determination of nonregulated status of maize (*Zea mays* L.) designated as event MON 87427, which has been genetically engineered for tissue-selective resistance to glyphosate in order to facilitate the production of hybrid maize seed. The petition stated that this maize is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

According to our process [1] for soliciting public comment when considering petitions for determinations of nonregulated status of GE organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. In a notice [2] published in the **Federal Register** on July 13, 2012, (77 FR 41359–41361, Docket No. APHIS–2012–0027), APHIS announced the availability of the Monsanto petition for public comment. APHIS solicited comments on the petition for 60 days ending on September 11, 2012, in order to help identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition.

APHIS received 82 comments on the petition: Several of these comments included electronic attachments consisting of a consolidated document of many identical or nearly identical letters, for a total of 23,698 comments. Issues raised during the comment period include effects of herbicide use, such as the development of herbicide-resistant weeds and effects on non-target organisms, gene flow, effects on organic corn production, and health concerns.

[1] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for GE organisms. To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129.*

[2] To view the notice, the petition, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0027.*

APHIS has evaluated the issues raised during the comment period and, where appropriate, has provided a discussion of these issues in our environmental assessment (EA).

After public comments are received on a completed petition, APHIS evaluates those comments and then provides a second opportunity for public involvement in our decisionmaking process. According to our public review process (see footnote 1), the second opportunity for public involvement follows one of two approaches, as described below.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises no substantive new issues, APHIS will follow Approach 1 for public involvement. Under Approach 1, APHIS announces in the **Federal Register** the availability of APHIS' preliminary regulatory determination along with its EA, preliminary finding of no significant impact (FONSI), and its plant pest risk assessment (PPRA) for a 30-day public review period. APHIS will evaluate any information received related to the petition and its supporting documents during the 30-day public review period. For this petition, we are using Approach 1.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises substantive new issues, APHIS will follow Approach 2. Under Approach 2, APHIS first solicits written comments from the public on a draft EA and PPRA for a 30-day comment period through the publication of a **Federal Register** notice. Then, after reviewing and evaluating the comments on the draft EA and PPRA and other information, APHIS will revise the PPRA as necessary and prepare a final EA and, based on the final EA, a National Environmental Policy Act (NEPA) decision document (either a FONSI or a notice of intent to prepare an environmental impact statement).

As part of our decisionmaking process regarding a GE organism's regulatory status, APHIS prepares a PPRA to assess the plant pest risk of the article. APHIS also prepares the appropriate environmental documentation—either an EA or an environmental impact statement—in accordance with NEPA, to provide the Agency and the public with a review and analysis of any potential environmental impacts that may result if the petition request is approved.

APHIS has prepared a PPRA and has concluded that maize event MON 87427 is unlikely to pose a plant pest risk. In section 403 of the Plant Protection Act, ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.

APHIS has prepared an EA in which we present two alternatives based on our analysis of data submitted by Monsanto, a review of other scientific data, field tests conducted under APHIS oversight, and comments received on the petition. APHIS is considering the following alternatives: (1) Take no action, i.e., APHIS would not change the regulatory status of maize event MON 87427 and it would continue to be a regulated article, or (2) make a determination of nonregulated status of maize event MON 87427.

The EA was prepared in accordance with (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our EA and other pertinent scientific data, APHIS has reached a preliminary FONSI with regard to the preferred alternative identified in the EA.

Based on APHIS' analysis of field and laboratory data submitted by Monsanto, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, comments provided by the public on the petition, and discussion of issues in the EA, APHIS has determined that maize event MON 87427 is unlikely to pose a plant pest risk. We have therefore reached a preliminary decision to make a determination of nonregulated status of maize event MON 87427, whereby maize event MON 87427 would no longer be subject to our regulations governing the introduction of certain GE organisms.

We are making available for a 30-day review period APHIS' preliminary regulatory determination of maize event MON 87427, along with our PPRA, EA, and preliminary FONSI for the preliminary determination of nonregulated status. The EA, preliminary FONSI, PPRA, and our preliminary determination for maize event MON 87427, as well as the Monsanto petition and the comments received on the petition, are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. Copies of these documents may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

After the 30-day review period closes, APHIS will review and evaluate any information received during the 30-day review period. If, after evaluating the information received, APHIS determines that we have not received substantive new information that would warrant APHIS altering our preliminary regulatory determination or FONSI, substantially changing the proposed action identified in the EA, or substantially changing the analysis of impacts in the EA, APHIS will notify the public through an announcement on our Web site of our final regulatory determination. If, however, APHIS determines that we have received substantive new information that would warrant APHIS altering our preliminary regulatory determination or FONSI, substantially changing the proposed action identified in the EA, or substantially changing the analysis of impacts in the EA, then APHIS will notify the public of our intent to conduct additional analysis and to prepare an amended EA, a new FONSI, and/or a revised PPRA, which would be made available for public review through the publication of a notice of availability in the **Federal Register**. APHIS will also notify the petitioner.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 19th day of July 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–17935 Filed 7–24–13; 8:45 am]

BILLING CODE 3410–34–P

ARCTIC RESEARCH COMMISSION

101st Commission Meeting

Notice is hereby given that the U.S. Arctic Research Commission will hold its 101st meeting in Unalaska, Alaska, on August 26–27, 2013. The business sessions, open to the public, will convene at 8:30 a.m.

The Agenda items include:

(1) Call to order and approval of the agenda

(2) Approval of the minutes from the 100th meeting

(3) Commissioners and staff reports

(4) Discussion and presentations concerning Arctic research activities

The focus of the meeting will be Arctic research activities in Unalaska, as well as reports and updates on other programs and research projects affecting the Arctic.

If you plan to attend this meeting, please notify us via the contact information below. Any person planning to attend who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission of those needs in advance of the meeting.

Contact person for further information: John Farrell, Executive Director, U.S. Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

John Farrell,

Executive Director.

[FR Doc. 2013–17846 Filed 7–24–13; 8:45 am]

BILLING CODE 7555–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nevada Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Nevada Advisory Committee (Committee) to the Commission will convene on Friday, August 16, 2013, at 1:00 p.m. and adjourn at approximately 3:00 p.m. at the Department of Employment, Training and Rehabilitation, 2800 East St. Louis Ave., Las Vegas, Nevada 89104. The agenda and purpose of the meeting is for the Committee to plan its project on policing and the administration of justice.

Members of the public are entitled to submit written comments. The comments must be received in the Western Regional Office by September 16, 2013. The mailing address is Western Regional Office, U.S. Commission on Civil Rights, 300 N. Los Angeles St., Suite 2010, Los Angeles, CA 90032. Persons wishing to email their comments may do so to *atrevino@usccr.gov.* Persons that desire additional information should contact the Western Regional Office at (213) 894–3437.

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov*, or to contact the Western Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Chicago, IL, July 22, 2013.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2013–17883 Filed 7–24–13; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1906]

Approval of Subzone Status; Easton-Bell Sports, Inc.; Rantoul, Illinois

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of subzones when existing zone facilities cannot serve the specific use involved;

Whereas, the Economic Development Council for Central Illinois, grantee of Foreign-Trade Zone 114, has made application to the Board for the establishment of a subzone at the facility of Easton-Bell Sports, Inc., located in Rantoul, Illinois, (FTZ Docket B–32–2013, docketed 4–16–2013);

Whereas, notice inviting public comment has been given in the **Federal Register** (78 FR 23904–23905, 4–23–2013) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves subzone status at the facility of Easton-Bell Sports, Inc., located in Rantoul, Illinois (Subzone 114F), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Signed at Washington, DC, this 16th day of July 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–17904 Filed 7–24–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review

SUMMARY: On June 24, 2013, the United States Court of International Trade (''CIT'' or ''Court'') sustained the Department of Commerce's (''Department'') final results of the third remand redetermination [1] relating to the ninth administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (''PRC''), pursuant to the CIT's remand order in *Taian Ziyang Food Co., Ltd.* v. *United States,* Court No. 05–00399, Slip. Op. 13–80 (CIT 2013). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (''*Diamond Sawblades*''), the Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department's final results and is amending its final results of the administrative review of the antidumping duty order on fresh garlic from the PRC covering the period of review (''POR'') of November 1, 2002

[1] *See* Department of Commerce Final Remand Results of Redetermination, CIT Court No. 05–399 (January 17, 2012).

through October 31, 2003, with respect to the weighted-average dumping margins assigned to Zhengzhou Harmoni Spice Co., Ltd., Jinan Yipin Corporation, Ltd., Linshu Dading Private Agricultural Products Co., Ltd., and Sunny Import & Export Co., Ltd. (collectively, ''Respondents'').

DATES: *Effective Date:* July 5, 2013.

FOR FURTHER INFORMATION CONTACT: Eugene Degnan, Office 8, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0414.

SUPPLEMENTARY INFORMATION:

Background

Subsequent to the publication of the *Final Results* [2] on June 13, 2005, and the *Amended Final Results* [3] on September 28, 2005, Chinese producers and exporters of fresh garlic filed a complaint with the CIT to challenge various aspects of the *Final Results* and *Amended Final Results* of the Department's ninth administrative review of the antidumping duty order on fresh garlic from the PRC.

On June 29, 2009, the Court sustained the Department's first remand redetermination as to three of 10 issues and remanded the remaining seven for further consideration.[4] On July 22, 2011, the Court sustained the Department's second remand redetermination with regard to four of the seven issues and remanded the remaining three issues, regarding valuation of factors of production for (1) labor, (2) cardboard packing cartons, and (3) plastic jars and lids, for further consideration.[5]

On June 24, 2013, the Court affirmed the Department's re-calculation of the surrogate labor wage rate by applying its current methodology of using certain industry-specific labor cost data from the selected surrogate country available during the underlying administrative review.[6] The Court also found that domestic producers failed to exhaust their administrative remedies to challenge surrogate value decisions concerning the cardboard packing cartons and plastic jars and lids because they did not submit comments on the Department's draft redetermination.[7] Lastly, the Court found that the Department's use of the ''near perfect'' price quotes, instead of ''distorted import statistics,'' as the surrogate value for the cartons, jars and lids was supported by substantial evidence.[8]

Timken Notice

In its decision in *Timken,* as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (''the Act''), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's June 24, 2013, judgment in this case constitutes a final decision of that court that is not in harmony with the Department's final results of the administrative review. This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending its *Final Results* and *Amended Final Results* with respect to the Respondents' weighted-average dumping margins for the period November 1, 2002 through October 31, 2003. The revised weighted-average dumping margins are as follows:

Exporter	Weighted-average dumping margin (percent)
Zhengzhou Harmoni Spice Co., Ltd	0.00
Jinan Yipin Corporation, Ltd	0.00
Linshu Dading Private Agricultural Products Co., Ltd	0.00
Sunny Import & Export Co., Ltd	0.00

In the event that the CIT's ruling is not appealed, or if appealed, upheld by the CAFC, because the above margins are zero, the Department will instruct CBP to liquidate entries of subject merchandise exported by the Respondents without regard to dumping duties.

This notice is issued and published in accordance with section 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: July 19, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–17903 Filed 7–24–13; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 70 FR 34082 (June 13, 2005) (''*Final Results*'').

[3] *See Notice of Amended Final Results of Antidumping Duty Administrative Review: Garlic From the People's Republic of China,* 70 FR 56639 (September 28, 2005) (''*Amended Final Results*'').

[4] *See Taian Ziyang Food Co., Ltd.* v. *United States,* 637 F. Supp. 2d 1093 (CIT 2009) (sustaining application of adverse facts available to the Taian Ziyang Food Company, Ltd.'s and Taian Fook Huat Tong Kee Foodstuffs Co., Ltd.'s factors of production).

[5] *See Taian Ziyang Food Co., Ltd.* v. *United States,* 783 F. Supp. 2d 1292 (CIT 2011).

[6] *See Taian Ziyang Food Co., Ltd.* v. *United States,* Court No. 05–00399, Slip. Op. 13–80 (CIT 2013).

[7] *Id.*

[8] *Id.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC778

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Groundfish Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, August 14, 2013 at 8:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, One Newbury Street Route 1, Peabody, MA 01960; telephone: (978) 535–4600; fax: (978) 535–8238.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

The Groundfish Oversight Committee will meet to discuss issues related to the Northeast Multispecies Fishery Management Plan, including the review of the Plan Development Team (PDT) work related to the development of Framework 51; the discussion of potential measures to include in Framework 51; review of PDT work related to the development of Amendment 18; review recommendations of the Groundfish Advisory Panel and discuss potential groundfish priorities for 2014. They will also address other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: July 19, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–17849 Filed 7–24–13; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No CFPB–2013–0023]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing to renew the approval for an existing information collection titled, *Fair Credit Reporting Act (Regulation V) 12 CFR 1022.*

DATES: Written comments are encouraged and must be received on or before September 23, 2013 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. In general, all comments received will be posted without change to regulations.gov, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this mailbox.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Fair Credit Reporting Act (Regulation V) 12 CFR 1022.

OMB Control Number: 3170–0002.

Type of Review: Extension without change of a previously approved collection.

Affected Public: Businesses or other for-profits (insured depository institutions and credit unions with total assets of more than $10 billion and their depository affiliates).

Estimated Number of Respondents: 155[1].

Estimated Total Annual Burden Hours: 4,737,120.

Abstract: The consumer disclosures included in Regulation V are designed to alert consumers that a financial institution furnished negative information about them to a consumer reporting agency, that they have a right to opt out of receiving marketing materials and credit or insurance offers, that their credit report was used in setting the material terms of credit that may be less favorable than the terms offered to consumers with better credit histories, that they maintain certain rights with respect to a theft of their identity that they reported to a consumer reporting agency, that they maintain rights with respect to knowing what is in their consumer reporting agency file, that they can request a free credit report, and that they can report a theft of their identity to the CFPB. Consumers then can use the information provided to consider how and when to check and use their credit reports.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. In this regard, the Bureau especially appreciates comments providing insights into the time and effort (''burden'') for covered entities to comply with the recordkeeping and

[1] The Bureau allocated half of the Federal Trade Commission (FTC) burden amount after subtracting the burden which the FTC has attributed to itself for motor vehicle dealers. Section 1029 of the Dodd-Frank Act exempts certain motor vehicle dealers from the Bureau's enforcement authority. However, due to the difficulty of making a reliable estimate of those dealers, the FTC has attributed to itself the PRA burden for all motor vehicle dealers. This attribution does not change the actual enforcement authority of either the FTC or the CFPB.

disclosure requirements of Regulation V. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: July 18, 2013.

Nellisha Ramdass,

Acting Deputy Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2013–17851 Filed 7–24–13; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2013–0022]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new generic information collection clearance titled, ''Generic Clearance for Consumer Complaint and Information Collection System (Testing and Feedback).''

DATES: Written comments are encouraged and must be received on or before August 26, 2013 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street, NW., Washington, DC 20552.

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. In general, all comments received will be posted without change to regulations.gov, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this email box.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Clearance for Consumer Complaint and Information Collection System (Testing and Feedback).

OMB Control Number: 3170–XXXX.

Type of Review: New Generic Clearance Request.

Affected Public: Individuals and Households; Businesses or other for-profit institutions; and State, Local or Tribal governments.

Estimated Number of Respondents: 3,270,000.

Estimated Total Annual Burden Hours: 418,260.

Abstract: Under Section 1013(b)(3) of the Dodd-Frank Act, the Bureau facilitates the centralized collection of, monitoring of, and response to complaints and inquiries regarding consumer financial products or services. The tasks of developing new questions and improving upon existing complaint questions along with related feedback to improve the complaint processing system would benefit from the streamlined flexibility of the generic clearance process. This generic clearance will allow the Bureau to test and pilot new and improved questions and requests for information. Stakeholder feedback will be used by Consumer Response to inform program improvements and enhancements as well as establishing their priority.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice on October 31, 2011 76 FR 67128. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information shall have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: July 16, 2013.

Nellisha Ramdass,

Acting Deputy Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2013–17852 Filed 7–24–13; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0167]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to add a new system of records.

SUMMARY: The Defense Logistics Agency proposes to add a new system of records, S240.55, DLA Mass Notification System (MNS), to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This system will provide DLA installations with the ability to rapidly and effectively disseminate emergency alerts and notification information to DLA installation personnel.

DATES: This proposed action will be effective on August 26, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before August 26, 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. Kathy Dixon, DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221, or by phone at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notice for

systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Web site at *http://dpclo.defense.gov/privacy/SORNs/component/dla/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 July 16, 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: July 19, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S240.55

SYSTEM NAME:

DLA Mass Notification System (MNS)

SYSTEM LOCATION:

Space and Naval Warfare Systems Center, 53560 Hull Street, San Diego, CA 92152–5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defense Logistics Agency (DLA) military and civilian personnel and on-site contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

First name, last name, work email, work phone number, mobile phone number, short message service (SMS) (texting), telephone typewriter, teletypewriter or text phone/Telecommunications Device for the Deaf (TTY/TTD), personal email, home phone, pager (one or two-way). Records are from various communication mediums such as workstation pop-ups, telephone (work, mobile, home), email (work and home), pagers and SMS.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; DODI 3020.42, Defense Continuity Plan Development; DODI 3020.52, DoD Installation Chemical, Biological, Radiological, Nuclear, and High-Yield Explosive (CBRNE) Preparedness Standards, and DODI 6055.17, DoD Installation Emergency Management (IEM) Program.

PURPOSE(S):

The DLA Mass Notification System (MNS) provides DLA installations with the ability to rapidly and effectively disseminate emergency alerts and notification information to DLA installation personnel.

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 of 1974, as amended, records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses may apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Data is retrieved by first and last name.

SAFEGUARDS:

Records may be accessed by the System Administrator, Emergency Management staff, and authorized designated installation representatives. They must have a Government Common Access Card (CAC) and associated Personal Identification Number (PIN) in addition to user identification and password for system access. Entry must list the technical, administrative, and physical safeguards employed by DLA to protect the records from loss, theft, and/or compromise.

RETENTION AND DISPOSAL:

Permanent. Disposition pending NARA approval.

SYSTEM MANAGER(S) AND ADDRESS:

Project Manager, Space and Naval Warfare Systems Center, Code 53628, 53560 Hull Street, San Diego, CA 92152–5001.

System Engineer, Space and Naval Warfare Systems Center, Code 54310, 53560 Hull Street, San Diego, CA 92152–5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Written requests should contain the record subject's full name, mailing address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Written requests should contain the record subject's full name, mailing address and telephone number.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The information is provided through existing DLA information systems and the subject(s).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–17848 Filed 7–24–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Pearl River Section 211 Watershed Project for the Pearl River Watershed, Mississippi

AGENCY: Department of Defense, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: Pursuant to Section 211 of the Water Resources Development Act of 1996, the Rankin-Hinds Pearl River Flood and Drainage Control District, in partnership with the U.S. Army Corps of Engineers (USACE), is conducting a re-analysis of all engineering, economic, and environmental factors relative to prospective flood alleviation measures in the Pearl River Watershed study area (the metropolitan Jackson area). The re-analysis will employ Department of the Army criteria and guidelines as well as local engineering and analytical criteria. This Draft Environmental Impact Statement (DEIS) will examine the

reasonably foreseeable environmental impacts of all alternative courses of action that may be proposed.

FOR FURTHER INFORMATION CONTACT: Questions or comments may be submitted to Mr. Matthew Mallard, U.S. Army Engineer District, Vicksburg, CEMVN–PDN–UDP, 4155 Clay Street, Vicksburg, MS 39183–3435; (601) 631–5960 (voice) or (601) 631–5115 (fax); *matthew.s.mallard@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

Proposed Action. The Rankin-Hinds Pearl River Flood and Drainage Control District, as per the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) (NEPA) and NEPA regulations of the Council on Environmental Quality (40 CFR part 1500 *et seq.*) and Corps of Engineers (33 CFR part 230), proposes in partnership with the U.S Army Corps of Engineers (USACE) as authorized by Section 211 of the Water Resources Development Act of 1996, to investigate measures to alleviate flooding in the study area.

Alternatives The DEIS for will be developed to continue to evaluate alternatives, both new and those previously provided in a comprehensive plan for flood damage reduction dated 2007, Preliminary Feasibility Study and Draft Environmental Impact Statement.

Scoping Process.

Public Involvement. Re-scoping is the method by which the Corps of Engineers involves the public, federal and state resource agencies, Indian tribes, and other interested parties in identifying the environmental issues to be examined and in establishing a range of alternatives to be evaluated in an ongoing study. All are invited to participate in the re-scoping process by attending the public information meeting to be held August 29, 2013, by submitting comments on the proposed action or DEIS, or both.

Environmental Impact. A tentative list of resources and issues that may be evaluated in the DEIS includes aquatic resources, recreational and commercial fisheries, wildlife resources, water quality, air quality, threatened or endangered species, recreation resources, and cultural resources. Tentative socio-economic considerations that may be evaluated in the DEIS include business and industrial activity, tax revenue, population growth, community and regional development, transportation, housing, community cohesion, and navigation.

Re-scoping Meeting. A public information meeting will be held August 29, 2013, from 6 to 8:00 p.m., at the Agriculture & Forestry Museum, 1150 Lakeland Drive, Jackson, MS 39216.

Estimated Date of Availability of a DEIS. September 2014.

Dated; July 16, 2013.

Barbara Petersen,

Acting Chief, Programs and Project, Management Division.

[FR Doc. 2013–17907 Filed 7–24–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Supplement to the July 2011 Environmental Impact Statement for the Proposed SR 1409 (Military Cutoff Road) Extension and Proposed U.S. 17 Hampstead Bypass New Hanover and Pender Counties in North Carolina, NCDOT TIP Projects U–4751 and R–3300

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Wilmington District, Wilmington Regulatory Field Office has received updated information for a future request for Department of the Army (DA) authorization, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbor Act, from the North Carolina Department of Transportation. This updated information was generated as the project was scoped and designed with input from the public and applicable resource agencies. Specifically, since release of the July 2011 Draft Environmental Impact Statement (EIS) the project now proposes an additional interchange on the north end of the project corridor as well as additional lanes not originally disclosed in the Draft EIS.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be directed to Mr. Brad Shaver, Regulatory Project Manager, Wilmington Regulatory Field Office, 69 Darlington Ave, Wilmington, NC 28403; telephone: (910) 251–4611 or *brad.e.shaver@usace.army.mil.* or Mr. Jay McInnis, Jr., P.E., Project Engineer, North Carolina Department of Transportation, 1548 Mail Service Center, Raleigh, NC 27699–1548, telephone: (919) 707–6029.

SUPPLEMENTARY INFORMATION:

1. *Proposed Action.* The COE in cooperation with the North Carolina Department of Transportation will prepare a supplement to the Draft (EIS) on a proposal to make transportation improvements to the U.S. 17 and Market Street (U.S. 17 Business) corridor in northern New Hanover and southern Pender Counties. Two North Carolina Department of Transportation Improvement Program (TIPs U–4751 and R–3300) projects are being evaluated as part of the U.S. 17 Corridor Study.

The purpose of the U.S. 17 Corridor Study project is to improve the traffic carrying capacity and safety of the U.S. 17 and Market Street corridor in the project area. The project study area is roughly bounded on the west by I–40, on the north by the Northeast Cape Fear River, Holly Shelter Game Lands to the east, and Market Street and U.S. 17 to the south.

This project is being reviewed through the Merger 01 process designed to streamline the project development and permitting processes, agreed to by the COE, North Carolina Department of Environment and Natural Resources (Division of Water Quality, Division of Coastal Management), Federal Highway Administration (for this project not applicable), and the North Carolina Department of Transportation and supported by other stakeholder agencies and local units of government. The other partnering agencies include: U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service; N.C. Wildlife Resources Commission; N.C. Department of Cultural Resources; and the Wilmington Metropolitan Planning Organization. The Merger process provides a forum for appropriate agency representatives to discuss and reach consensus on ways to facilitate meeting the regulatory requirements of Section 404 of the Clean Water Act during the NEPA/SEPA decision-making phase of transportation projects.

Through input from the public and resource agencies the project has been changed to include a second interchange at the northern terminus. Additionally, the project currently proposes additional travel lanes between a previously proposed interchange south of the Topsail High School and the aforementioned northern interchange. These changes were considered substantial changes which the public has not had input and thus necessitates the development and release of the supplement Draft EIS. The original Draft EIS is still available for review on the project Web page: *http://www.ncdot.gov/projects/US17HampsteadBypass/.*

2. *Scoping Process.* As described above the project is progressing through the Merger process which allows for input from interested stake holders.

Additionally, the NCDOT held two corridor public hearings one on October 27, 2011 at Noble Middle School in Wilmington and the other on October 18, 2011 at Topsail High School in Hampstead. The described changes came as a direct result from the agency and public input. The NCDOT anticipates holding future design public hearings to further describe changes to the project since 2011.

A 45-day public review period will be provided for all interested parties, individuals, and agencies to review and comment on the Draft Supplement to the EIS when released.

3. *Availability of the Supplement to the EIS.* The Draft Supplement is expected to be published and circulated late Summer or Fall of 2013.

Dated: July 15, 2013.

Henry Wicker,

Asst. Chief, Regulatory Division.

[FR Doc. 2013–17906 Filed 7–24–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Inland Waterways Users Board

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting.

Name of Committee: Inland Waterways Users Board (Board).

Date: August 13, 2013.

Location: Meeting at The Brown Hotel, 335 West Broadway, Louisville, Kentucky 40202, at 502–583–1234 or 888–888–5252, or BrownHotel.com.

Time: Registration will begin at 8:30 a.m. and the meeting is scheduled to adjourn at approximately 1:00 p.m.

Agenda: The agenda will include the status of funding for inland navigation projects and studies, the status of the Inland Waterways Trust Fund, funding for Fiscal Year (FY) 2013 and 2014, update of proposed water resources-related authorization bills, status of the Olmsted Locks and Dam Project, an update of the Inland Marine Transportation System (IMTS) Levels of Service and status of the Inland Waterways System.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, Institute for Water Resources, U.S. Army Corps of Engineers, CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, Virginia 22315–3868; Ph: 703–428–6438.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–17654 Filed 7–24–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

[FE Docket No. 13–42–LNG]

Sabine Pass Liquefaction, LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas Produced From Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 20-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application) filed on April 2, 2013, by Sabine Pass Liquefaction, LLC (SPL), requesting long-term authorization to export liquefied natural gas (LNG) produced from domestic sources in an amount up to 91,250,000 million British thermal units ((MMBtu) per year (the equivalent of 88.3 billion standard cubic feet (Bcf) of natural gas per year), pursuant to the LNG Sale and Purchase Agreement (FOB) between SPL as seller and Centrica plc (CENTRICA) as buyer dated March 22, 2013 (CENTRICA SPA). SPL seeks authorization to export LNG from the Sabine Pass LNG Terminal in Cameron Parish, Louisiana, both to: (i) Any nation that currently has or in the future develops the capacity to import LNG and with which the United States currently has, or in the future enters into, a free trade agreement (FTA) requiring national treatment for trade in natural gas and LNG; and (ii) all countries that have not entered into an FTA with the United States requiring national treatment for trade in natural gas, which currently have or in the future develop the capacity to import LNG, and with which trade in not prohibited by U.S. law or policy. In the portion of SPL's Application subject to this Notice, SPL requests authorization to export LNG to any country with which the United States does not have an FTA requiring national treatment for trade in natural gas (non-FTA countries) with which trade is not prohibited by U.S. law or policy. SPL requests that this authorization commence on the earlier of the date of first export or eight years from the date the authorization is granted. The Application was filed under section 3 of the Natural Gas Act (NGA), 15 U.S.C. 717b.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., eastern time, September 23, 2013.

ADDRESSES: Electronic Filing by email: *fergas@hq.doe.gov.*

Regular Mail

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Lisa Tracy, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9478; (202) 586–4523.

Edward Myers, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6B–256, 1000 Independence Avenue. SW., Washington, DC 20585, (202) 586–3397.

SUPPLEMENTARY INFORMATION:

Background

SPL, a limited liability company with its principal place of business in Houston, Texas, is an indirect subsidiary of Cheniere Energy Partners, L.P. (Cheniere Partners), a limited partnership majority owned by Cheniere Energy, Inc. (Cheniere Energy). Cheniere Partners is a Delaware limited partnership with its primary place of business in Houston, Texas; Cheniere Energy is a Delaware corporation with its primary place of business in Houston, Texas. Cheniere Energy is a developer of LNG terminals and natural gas pipelines on the Gulf Coast,

including the Sabine Pass LNG Terminal. SPL is authorized to do business in the States of Texas and Louisiana.

SPL and its affiliate, Sabine Pass LNG, L.P., are currently developing a liquefaction project consisting of four LNG production trains at the existing Sabine Pass LNG import, storage and vaporization terminal in Cameron, Parish, Louisiana (Liquefaction Project). On April 16, 2012, the Federal Energy approved the construction and operation of the Liquefaction Project. On August 7, 2012, in Order No. 2961–A, DOE/FE issued final authorization to SPL to export LNG from the Sabine Pass LNG Terminal to non-FTA Nations.[1] On February 27, 2013, SPL filed with the Federal Energy Regulatory Commission (FERC) a request to initiate the Commission's pre-filing review [2] for a proposed expansion of the Liquefaction Project that would consist of two additional liquefaction trains (Trains 5 and 6) totaling approximately 1.3 Bcf per day of natural gas liquefaction capacity (Liquefaction Expansion Project).[3]

The parties to the CENTRICA SPA are SPL and CENTRICA. CENTRICA is a public limited company organized under the laws of England and Wales, with a primary place of business in Windsor, United Kingdom. SPL states that CENTRICA is a multi-national energy company with operations in seven countries, including the United States, involved in a wide range of activities, such as oil and gas exploration, electricity generation, natural gas distribution, and energy trading, among others.

Current Application

SPL requests authorization to export up to 91,250,000 MMBtu per year of natural gas (approximately 88.3 Bcf per year) as LNG from the proposed fifth train at the Sabine Pass Liquefaction Project in Cameron Parish, Louisiana, to: (i) Any country with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas, and (ii) any country with which the United States does not have an FTA requiring national treatment for trade in natural gas (non-FTA countries) with which trade is not prohibited by U.S. law or policy. SPL seeks authorization to export the LNG for a 20-year term, commencing on the earlier of the date of first export or eight years from the date the authorization is issued.

On July 12, 2013, in DOE/FE Order No. 3307, DOE granted the portion of SPL's current Application seeking export authorization to FTA nations.[4] DOE/FE Order 3307, issued pursuant to pursuant to NGA section 3(c), 15 U.S.C. 717b(c), authorizes SPL to export domestically produced LNG by vessel pursuant to the long-term contract with Centrica plc from the Sabine Pass LNG Terminal. The portion of SPL's Application that seeks authorization to export domestically produced LNG to non-FTA countries will be reviewed pursuant to NGA section 3(a), 15 U.S.C. 717b(a), and is the subject of this Notice.

SPL states that the volume of natural gas to be exported and dates of commencement and completion for the proposed exports from the proposed fifth liquefaction train are set forth in the CENTRICA SPA. SPL further states that it will deliver to CENTRICA an annual contract quantity consisting of 91,250,000 MMBtu per year, which is equivalent to approximately 88.3 Bcf of natural gas per year. The price of LNG made available under the CENTRICA SPA consists of a two-part rate: the first part reimburses SPL for the capital and operating costs of the facilities that will be constructed; and the second part reimburses SPL for the cost of fuel and feed gas purchased to satisfy loading nominations under the contract. The CENTRICA SPA has a primary term of 20 years from the date of first commercial delivery from the fifth LNG train, and may be extended for an additional ten year term upon election by CENTRICA. SPL states that the remaining terms and conditions of the CENTRICA SPA are substantially similar to other sales and purchase agreements in the industry.

SPL states that it will purchase natural gas to be used as fuel and feedstock for LNG production from the interstate and intrastate grid at points of interconnection with other pipelines and with points of liquidity that are both upstream and downstream of the CCTPL system and other systems that interconnect with the Liquefaction Expansion Project. SPL anticipates that the Liquefaction Expansion Project will have access to various other interstate and intrastate pipeline systems that will enable SPL to purchase natural gas from multiple conventional and unconventional basins across the region and state, and throughout the U.S. SPL notes that this supply can be sourced in large volumes in the spot market, or else pursued under long-term arrangements. SPL notes that, to date, it has not entered into any natural gas purchase agreements for the purpose of supplying natural gas feedstock for the exports contemplated by the CENTRICA SPA.

SPL requests that DOE/FE issue the FTA Authorization without modification or delay in accordance with the applicable standard of review under Section 3(c) of the NGA, and requests that DOE/FE issue the Non-FTA Authorization prior to March 31, 2014. SPL requests that the non-FTA Authorization be issued as a conditional order, pursuant to Section 590.402 of the DOE regulations, followed by issuance of a final order immediately upon completion of the environmental review of the Liquefaction Expansion Project by FERC.

Public Interest Considerations

SPL states that its proposed non-FTA authorization should be granted by DOE/FE because it is not inconsistent with the public interest, as set forth in NGA section 3(a), and that there is ample evidence in the public record that exports of LNG, such as those requested by SPL in this Application, are in the public interest.

SPL asserts that in granting SPL's request for export authorization in Orders No. 2961 and 2961–A, DOE/FE already has made a favorable public interest determination in the case of LNG exports from the Liquefaction Project. SPL contends that this previous determination made by DOE/FE is equally applicable here. SPL states that the determination in the earlier preceding was made on the basis of the very robust market studies and other evidence and comments that SPL submitted and that these items demonstrated the substantial economic and public benefits that are likely to follow from exports of natural gas as LNG. In particular, SPL points to the substantial record that it developed demonstrating the public interest benefits of exports in FE Docket No. 10–111–LNG.

[1] DOE/FE Order No. 2961, issued on May 20, 2011, granted conditional authorization to SPL to export domestically produced LNG from the Sabine Pass LNG Terminal to non-FTA nations.

[2] SPL received FERC approval to commence the mandatory National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, *et seq.,* pre-filing review process for the planned Liquefaction Expansion Project on March 8, 2013, in Docket No. PF13–8–000. On June 7, 2013, the FERC published a Notice of Intent to Prepare an Environmental Assessment for SPL's planned expansion.

[3] SPL's pre-filing request also includes a request by an affiliated interstate pipeline company, Cheniere Creole Trail Pipeline, L.P. (CCTPL), for a proposed extension and expansion of the existing Cheniere Creole Trail Pipeline system in order to deliver feed-gas to the Liquefaction Expansion Project.

[4] *Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 3307, Order Granting Authorization to Export Liquefied Natural Gas by Vessel Pursuant to the Long-Term Contract with Centrica plc from the Sabine Pass LNG Terminal to Free Trade Agreement Nations.

To further support the Application, SPL provides discussion of U.S. domestic production and consumption of natural gas, which, according to SPL, concludes that the sale of LNG to CENTRICA pursuant to the CENTRICA SPA is in the public interest and that such exports do not reduce the amount of natural gas available for domestic uses. Specifically, SPL provides further discussion with the following:

(1) SPL states that the CENTRICA SPA was specifically constructed to respect the competitive natural gas market and to ensure that CENTRICA has the opportunity to respond to price signals as well. SPL further states that the export agreement functions in concert with the market, so that if additional gas supplies are required from participants that would otherwise consume gas, those supplies can be released to consumers that value it more. SPL further notes that because the CENTRICA SPA is constructed with a market mechanism that responds to the competitive natural gas market, it never results in consumption of gas that would otherwise be required by the market.

(2) SPL states that it previously commissioned a report from Advanced Resources International (ARI), titled *U.S. Natural Gas Resources and Productive Capacity: Mid-2012* (ARI Resource Report), to assess the scope of domestic natural gas resources and its potential for future recovery. SPL states that the ARI Resource Report demonstrates that the U.S. has significant natural gas resources available to meet projected future domestic needs, including the quantities contemplated for export under this Application. SPL further states that the ARI Resource Report establishes that the availability of new natural gas reserves is likely to continue expanding into the future as new unconventional formations are discovered and the oil and gas industry continues to improve drilling and extraction techniques.

(3) SPL states that the Reference Case of EIA's *Annual Energy Outlook 2013 Early Release* (AEO 2013) supports the proposition that the domestic natural gas resource base continues to expand rapidly. SPL states that the AEO 2013 Reference Case forecasts that domestic dry natural gas production will increase by an average of 1.3% per year through 2040 and that U.S. dry natural gas production will total 33.14 Tcf by 2040, an increase of 44% from production levels of 23.0 Tcf in 2011. SPL further notes that the AEO 2013 Reference Case projects that domestic demand growth for natural gas will average 0.7% annually over the next 30 years, leading to a domestic market of 29.54 Tcf by 2040. SPL states that AEO 2013 projects that over this same period of time, domestic natural gas production is projected to grow by 1.3% per year on average, or approximately twice the rate of growth in domestic natural gas demand. SPL further states that the EIA anticipates that the U.S. will become a net exporter of natural gas after 2020.

In summary, SPL states that the abundant U.S. natural gas supplies and the overwhelmingly positive economic benefits of the Liquefaction Project and associated LNG exports, coupled with the competitive pricing mechanism in the CENTRICA SPA, unequivocally establish that SPL's proposal satisfies the public interest standard as set forth in DOE's Policy Guidelines.[5]

Further details can be found in Appendix C of the Application, which has been posted at *http://www.fossil.energy.gov/programs/gasregulation/authorizations/2013_applications/13_42_lng.pdf.*

Environmental Impact

SPL states that the potential environmental impact of the Sabine Pass Expansion Project will be reviewed by FERC as the lead agency for the purposes of coordinating all applicable federal authorizations and complying with NEPA. SPL anticipates that DOE/FE will participate as a cooperating agency in FERC's environmental review process for the Liquefaction Expansion Project. SPL maintains that DOE/FE has adopted regulations of the Council on Environmental Quality (CEQ) that govern its role as a cooperating agency in the NEPA process. DOE's regulations provide that DOE shall cooperate with the other agencies in developing environmental information. Finally, SPL states that CEQ's regulations further provide for DOE/FE to adopt FERC's findings so long as FERC has satisfactorily addressed any comments raised by DOE/FE in its role as a cooperating agency.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and the authority contained in DOE Delegation Order No. 00–002.00L (April 29, 2011) and DOE Redelegation Order No. 00–002.04E (April 29, 2011). In reviewing this LNG export Application, DOE will consider any issues required by law or policy. To the extent determined to be relevant or appropriate, these issues will include the impact of LNG exports associated with this Application on domestic need for the gas proposed for export, adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE will also consider any other relevant issues, including the impact on the U.S. economy (GDP), consumers, and industry, job creation, U.S. balance of trade, international considerations, and whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should address these issues in their comments and/or protests, as well as any other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR Part 590.

Filings may be submitted using one of the following methods: (1) emailing the filing to *fergas@hq.doe.gov* with FE Docket No. 13–42–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand

[5] *Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas,* 49 FR 6684 (Feb. 22, 1984).

delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES** before 4:30 p.m. EST. All filings must include a reference to FE Docket No. 13–42–LNG. **Please note:** If submitting a filing via email, please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision, and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

The Application is available for inspection and copying in the Office of Oil and Gas Global Security and Supply docket room, Room 3E–042, 1000 Independence Avenue, SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: h*ttp://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on July 18, 2013.

John A. Anderson,

Manager, Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Fossil Energy.

[FR Doc. 2013–17886 Filed 7–24–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 13–30–LNG]

Sabine Pass Liquefaction, LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas Produced From Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 20-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application) filed on February 27, 2013, by Sabine Pass Liquefaction, LLC (SPL), requesting long-term authorization to export liquefied natural gas (LNG) produced from domestic sources in an amount up to 104,250,000 million British thermal units ((MMBtu) per year (the equivalent of 101 billion standard cubic feet (Bcf) of natural gas per year), pursuant to the LNG Sale and Purchase Agreement (FOB) between SPL as seller and Total Gas & Power North America, Inc. (TGPNA) as buyer dated December 14, 2012 (TOTAL SPA). SPL seeks authorization to export LNG from the Sabine Pass LNG Terminal in Cameron Parish, Louisiana, both to: (i) Any nation that currently has or in the future develops the capacity to import LNG and with which the United States currently has, or in the future enters into, a free trade agreement (FTA) requiring national treatment for trade in natural gas and LNG; and (ii) all countries that have not entered into an FTA with the United States requiring national treatment for trade in natural gas, which currently have or in the future develop the capacity to import LNG, and with which trade in not prohibited by U.S. law or policy. In the portion of SPL's Application subject to this Notice, SPL requests authorization to export LNG to any country with which the United States does not have an FTA requiring national treatment for trade in natural gas (non-FTA countries) with which trade is not prohibited by U.S. law or policy. SPL requests that this authorization commence on the earlier of the date of first export or eight years from the date the authorization is granted. The Application was filed under section 3 of the Natural Gas Act (NGA), 15 U.S.C. 717b.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., eastern time, September 23, 2013.

ADDRESSES:

Electronic Filing by email: *fergas@hq.doe.gov*

Regular Mail U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.) U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Lisa Tracy, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–4523.

Edward Myers, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6B–256, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–3397.

SUPPLEMENTARY INFORMATION:

Background

SPL, a limited liability company with its principal place of business in Houston, Texas, is an indirect subsidiary of Cheniere Energy Partners, L.P. (Cheniere Partners), a limited partnership majority owned by Cheniere Energy, Inc. (Cheniere Energy). Cheniere Partners is a Delaware limited partnership with its primary place of business in Houston, Texas; Cheniere Energy is a Delaware corporation with its primary place of business in Houston, Texas. Cheniere Energy is a developer of LNG terminals and natural

gas pipelines on the Gulf Coast, including the Sabine Pass LNG Terminal. SPL is authorized to do business in the States of Texas and Louisiana.

SPL and its affiliate, Sabine Pass LNG, L.P., are currently developing a liquefaction project consisting of four LNG production trains at the existing Sabine Pass LNG import, storage and vaporization terminal in Cameron, Parish, Louisiana (Liquefaction Project). On April 16, 2012, the Federal Energy approved the construction and operation of the Liquefaction Project. On August 7, 2012, in Order No. 2961–A, DOE/FE issued final authorization to SPL to export LNG from the Sabine Pass LNG Terminal to non-FTA Nations.[1] On February 27, 2013, concurrent with this Application, SPL filed with the Federal Energy Regulatory Commission (FERC) a request to initiate the Commission's pre-filing review [2] for a proposed expansion of the Liquefaction Project that would consist of two additional liquefaction trains (Trains 5 and 6) totaling approximately 1.3 Bcf per day of natural gas liquefaction capacity (Liquefaction Expansion Project).[3]

The parties to the TOTAL SPA are SPL and TGPNA. TGPNA is a Delaware corporation with a primary place of business in Houston, Texas. TGPNA is a wholly-owned indirect subsidiary of Total S.A., a multinational energy company based in Paris, France, with operations in numerous sectors, including oil and gas exploration, oil refining, electricity production and chemical manufacturing, among others.

Current Application

SPL requests authorization to export up to 104,250,000 MMBtu per year of natural gas (approximately 101 Bcf per year) as LNG from the proposed fifth train at the Sabine Pass Liquefaction Project in Cameron Parish, Louisiana, to: (i) Any country with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas, and (ii) any country with which the United States does not have an FTA requiring national treatment for trade in natural gas (non-FTA countries) with which trade is not prohibited by U.S. law or policy. SPL seeks authorization to export the LNG for a 20-year term, commencing on the earlier of the date of first export or eight years from the date the authorization is issued.

On July 11, 2013, in DOE/FE Order No. 3306, DOE granted the portion of SPL's current Application seeking export authorization to FTA nations.[4] DOE/FE Order 3306, issued pursuant to pursuant to NGA section 3(c), 15 U.S.C. 717b(c), authorizes SPL to export domestically produced LNG by vessel pursuant to the long-term contract with Total Gas & Power North America, Inc. from the Sabine Pass LNG Terminal. The portion of SPL's Application that seeks authorization to export domestically produced LNG to non-FTA countries will be reviewed pursuant to NGA section 3(a), 15 U.S.C. 717b(a), and is the subject of this Notice.

SPL states that the volume of natural gas to be exported and dates of commencement and completion for the proposed exports from the proposed fifth liquefaction train are set forth in the TOTAL SPA. SPL further states that it will deliver to TGPNA an annual contract quantity consisting of two components: an annual contract tranche of 91,250,000 MMBtu per year, and a seasonal tranche of 13,000,000 MMBtu per year, which together are equivalent to approximately 101 Bcf of natural gas per year. The price of LNG made available under the TOTAL SPA consists of a two-part rate: the first part reimburses SPL for the capital and operating costs of the facilities that will be constructed; and the second part reimburses SPL for the cost of fuel and feed gas purchased to satisfy loading nominations under the contract. The TOTAL SPA has a primary term of 20 years from the date of first commercial delivery from the fifth LNG train, and may be extended for an additional ten year term upon election by TGPNA. SPL states that the remaining terms and conditions of the TOTAL SPA are substantially similar to other sales and purchase agreements in the industry.

SPL states that it will purchase natural gas to be used as fuel and feedstock for LNG production from the interstate and intrastate grid at points of interconnection with other pipelines and with points of liquidity that are both upstream and downstream of the CCTPL system and other systems that interconnect with the Liquefaction Expansion Project. SPL anticipates that the Liquefaction Expansion Project will have access to various other interstate and intrastate pipeline systems that will enable SPL to purchase natural gas from multiple conventional and unconventional basins across the region and state, and throughout the U.S. SPL notes that this supply can be sourced in large volumes in the spot market, or else pursued under long-term arrangements. SPL notes that, to date, it has not entered into any natural gas purchase agreements for the purpose of supplying natural gas feedstock for the exports contemplated by the TOTAL SPA.

SPL requests that DOE/FE issue the FTA Authorization without modification or delay in accordance with the applicable standard of review under Section 3(c) of the NGA, and requests that DOE/FE issue the Non-FTA Authorization prior to March 31, 2014. SPL requests that the non-FTA Authorization be issued as a conditional order, pursuant to Section 590.402 of the DOE regulations, followed by issuance of a final order immediately upon completion of the environmental review of the Liquefaction Expansion Project by FERC.

Public Interest Considerations

SPL states that its proposed non-FTA authorization should be granted by DOE/FE because it is not inconsistent with the public interest, as set forth in NGA section 3(a), and that there is ample evidence in the public record that exports of LNG, such as those requested by SPL in this Application, are in the public interest.

SPL asserts that in granting SPL's request for export authorization in Orders No. 2961 and 2961–A, DOE/FE already has made a favorable public interest determination in the case of LNG exports from the Liquefaction Project. SPL contends that this previous determination made by DOE/FE is equally applicable here. SPL states that the determination in the earlier preceding was made on the basis of the very robust market studies and other evidence and comments that SPL submitted and that these items demonstrated the substantial economic and public benefits that are likely to follow from exports of natural gas as LNG. In particular, SPL points to the substantial record that it developed demonstrating the public interest

[1] DOE/FE Order No. 2961, issued on May 20, 2011, granted conditional authorization to SPL to export domestically produced LNG from the Sabine Pass LNG Terminal to non-FTA nations.

[2] SPL received FERC approval to commence the mandatory National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.,* pre-filing review process for the planned Liquefaction Expansion Project on March 8, 2013, in Docket No. PF13–8–000. On June 7, 2013, the FERC published a Notice of Intent to Prepare an Environmental Assessment for SPL's planned expansion.

[3] SPL's pre-filing request also includes a request by an affiliated interstate pipeline company, Cheniere Creole Trail Pipeline, L.P. (CCTPL), for a proposed extension and expansion of the existing Cheniere Creole Trail Pipeline system in order to deliver feed-gas to the Liquefaction Expansion Project.

[4] *Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 3306, Order Granting Authorization to Export Liquefied Natural Gas by Vessel Pursuant to the Long-Term Contract with Total Gas & Power North America, Inc. from the Sabine Pass LNG Terminal to Free Trade Agreement Nations.

benefits of exports in FE Docket No. 10–111–LNG.

To further support the Application, SPL provides discussion of U.S. domestic production and consumption of natural gas, which, according to SPL, concludes that the sale of LNG to TGPNA pursuant to the TOTAL SPA is in the public interest and that such exports do not reduce the amount of natural gas available for domestic uses. Specifically, SPL provides further discussion with the following:

(1) SPL states that the TOTAL SPA was specifically constructed to respect the competitive natural gas market and to ensure that TGPNA has the opportunity to respond to price signals as well. SPL further states that the export agreement functions in concert with the market, so that if additional gas supplies are required from participants that would otherwise consume gas, those supplies can be released to consumers that value it more. SPL further notes that because the TOTAL SPA is constructed with a market mechanism that responds to the competitive natural gas market, it never results in consumption of gas that would otherwise be required by the market.

(2) SPL states that it previously commissioned a report from Advanced Resources International (ARI), titled *U.S. Natural Gas Resources and Productive Capacity: Mid-2012* (ARI Resource Report), to assess the scope of domestic natural gas resources and their potential for future recovery. SPL states that the ARI Resource Report demonstrates that the U.S. has significant natural gas resources available to meet projected future domestic needs, including the quantities contemplated for export under this Application. SPL further states that the ARI Resource Report establishes that the availability of new natural gas reserves is likely to continue expanding into the future as new unconventional formations are discovered and the oil and gas industry continues to improve drilling and extraction techniques.

(3) SPL states that the Reference Case of EIA's *Annual Energy Outlook 2013 Early Release* (AEO 2013) supports the proposition that the domestic natural gas resource base continues to expand rapidly. SPL states that the AEO 2013 Reference Case forecasts that domestic dry natural gas production will increase by an average of 1.3% per year through 2040 and that U.S. dry natural gas production will total 33.14 Tcf by 2040, an increase of 44% from production levels of 23.0 Tcf in 2011. SPL further notes that the AEO 2013 Reference Case projects that domestic demand growth for natural gas will average 0.7% annually over the next 30 years, leading to a domestic market of 29.54 Tcf by 2040. SPL states that AEO 2013 projects that over this same period of time, domestic natural gas production is projected to grow by 1.3% per year on average, or approximately twice the rate of growth in domestic natural gas demand. SPL further states that the EIA anticipates that the U.S. will become a net exporter of natural gas after 2020.

In summary, SPL states that the abundant U.S. natural gas supplies and the overwhelmingly positive economic benefits of the Liquefaction Project and associated LNG exports, coupled with the competitive pricing mechanism in the TOTAL SPA, unequivocally establish that SPL's proposal satisfies the public interest standard as set forth in DOE's Policy Guidelines.[5]

Further details can be found in Appendix C of the Application, which has been posted at *http://www.fossil.energy.gov/programs/gasregulation/authorizations/2013_applications/13_30_lng2.pdf.*

Environmental Impact

SPL states that the potential environmental impact of the Sabine Pass Expansion Project will be reviewed by FERC as the lead agency for the purposes of coordinating all applicable federal authorizations and complying with NEPA. SPL anticipates that DOE/FE will participate as a cooperating agency in FERC's environmental review process for the Liquefaction Expansion Project. SPL maintains that DOE/FE has adopted regulations of the Council on Environmental Quality (CEQ) that govern its role as a cooperating agency in the NEPA process. DOE's regulations provide that DOE shall cooperate with the other agencies in developing environmental information. Finally, SPL states that CEQ's regulations further provide for DOE/FE to adopt FERC's findings so long as FERC has satisfactorily addressed any comments raised by DOE/FE in its role as a cooperating agency.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and the authority contained in DOE Delegation Order No. 00–002.00L (April 29, 2011) and DOE Redelegation Order No. 00–002.04E (April 29, 2011). In reviewing this LNG export Application, DOE will consider any issues required by law or policy. To the extent determined to be relevant or appropriate, these issues will include the impact of LNG exports associated with this Application on domestic need for the gas proposed for export, adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE will also consider any other relevant issues, including the impact on the U.S. economy (GDP), consumers, and industry, job creation, U.S. balance of trade, international considerations, and whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should address these issues in their comments and/or protests, as well as any other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR Part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov* with FE Docket No. 13–30–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office Oil and

[5] *Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas,* 49 FR 6684 (Feb. 22, 1984).

Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES** before 4:30 p.m. EST. All filings must include a reference to FE Docket No. 13–30–LNG. **Please note:** If submitting a filing via email, please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision, and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Oil and Gas Global Security and Supply docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on July 18, 2013.

John A. Anderson,

Manager, Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Fossil Energy.

[FR Doc. 2013–17885 Filed 7–24–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Orders Granting Authority To Import and Export Natural Gas, and To Import and Export Liquefied Natural Gas During May 2013

	FE DOCKET NOS.
CASCADE NATURAL GAS CORPORATION	12–179–NG
CASCADE NATURAL GAS CORPORATION	12–178–NG
CASCADE NATURAL GAS CORPORATION	12–180–NG
SV LNG TRADING COMPANY	13–48–LNG
CHEVRON U.S.A. INC	13–49–NG
U.S. GAS & ELECTRIC, INC	13–47–NG
GAVILON, LLC	13–50–NG
HERMISTON GENERATING COMPANY, L.P	13–52–NG
FREEPORT LNG EXPANSION, L.P. AND FLNG LIQUEFACTION, LLC)	10–161–LNG
REV LNG LLC	13–53–LNG
SITHE/INDEPENDENCE POWER PARTNERS, L.P	13–58–NG
CITY OF PASADENA	13–54–NG
SOUTHERN CALIFORNIA GAS COMPANY	13–55–NG
GDF SUEZ GAS NA LLC	13–56–LNG
CNE GAS SUPPLY, LLC	13–57–NG
IDAHO POWER COMPANY	13–60–NG
FREEPORT–MCMORAN ENERGY LLC	13–26–LNG
RBC ENERGY SERVICES L.P	13–59–NG
ALTAGAS MARKETING (U.S. INC.)	13–62–NG
BP WEST COAST PRODUCTS LLC	13–64–NG
PENTACLES ENERGY, LLLP	13–65–NG

AGENCY: Office of Fossil Energy, Department of Energy (DOE).

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during May 2013, it issued orders granting authority to import and export natural gas and to import and export liquefied natural gas. These orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fossil.energy.gov/programs/gasregulation/authorizations/Orders-2013.html.* They are also available for inspection and copying in the Office of Fossil Energy, Office of Natural Gas Regulatory Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW.,

Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on July 18, 2013.

John A. Anderson,

Manager, Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Fossil Energy.

Appendix

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

3274	05/01/13	12–178–NG	Cascade Natural Gas Corporation.	Order granting long-term authority to import natural gas from Canada.
3275	05/01/13	12–179–NG	Cascade Natural Gas Corporation.	Order granting long-term authority to import natural gas from Canada.
3276	05/01/13	12–180–NG	Cascade Natural Gas Corporation.	Order granting long-term authority to import natural gas from Canada.
3277	05/02/13	13–48–LNG	SV Global LNG Trading Company, LLC.	Order granting blanket authority to import LNG from various international sources by vessel.
3278	05/02/13	13–49–NG	Chevron U.S.A., Inc	Order granting blanket authority to import/export natural gas from/to Canada.
3279	05/07/13	13–47–NG	U.S. Gas & Electric, Inc	Order granting blanket authority to import natural gas from Canada.
3280	05/07/13	13–50–NG	Gavilon, LLC	Order granting blanket authority to import/export natural gas from/to Canada.
3281	05/07/13	13–52–NG	Hermiston Generating Company, L.P.	Order granting blanket authority to import natural gas from Canada.
3282	05/17/13	10–161–LNG	Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC.	Order conditionally granting long-term authority to export LNG by vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations.
3283	05/22/13	13–53–LNG	Rev LNG LLC	Order granting blanket authority to export LNG to Canada by truck.
3284	05/22/13	13–58–NG	Sithe/Independence Power Partners, L.P.	Order granting blanket authority to import natural gas from Canada.
3285	05/23/13	13–54–NG	City of Pasadena	Order granting blanket authority to import/export natural gas from/to Canada.
3286	05/23/13	13–55–NG	Southern California Gas Company.	Order granting blanket authority to import/export natural gas from/to Mexico.
3287	05/23/13	13–56–NG	GDF SUEZ Gas NA LLC	Order granting blanket authority to import LNG from Canada by truck.
3288	05/23/13	13–57–NG	CNE Gas Supply, LLC	Order granting blanket authority to import natural gas from Canada.
3289	05/23/13	13–60–NG	Idaho Power Company	Order granting blanket authority to import natural gas from Canada.
3290	05/24/13	13–26–LNG	Freeport-McMoRan Energy LLC.	Order granting long-term multi-contract authority to export LNG by vessel from the proposed Main Pass Energy Hub Deepwater Port 16 miles offshore of Louisiana to Free Trade Agreement Nations.
3291	05/31/13	13–59–NG	RBC Energy Services L.P	Order granting blanket authority to import/export natural gas from/to Canada.
3292	05/31/13	13–62–NG	AltaGas Marketing (U.S.) Inc	Order granting blanket authority to import/export natural gas from/to Canada.
3293	05/31/13	13–64–NG	BP West Coast Products LLC	Order granting blanket authority to import/export natural gas from/to Canada.
3294	05/31/13	13–65–NG	Pentacles Energy, LLLP	Order granting blanket authority to export natural gas to Mexico and to export LNG to Mexico by vessel and by truck.

[FR Doc. 2013–17897 Filed 7–24–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a combined meeting of the Environmental Monitoring and Remediation Committee, Waste Management Committee, and Waste Isolation Pilot Plant Ad Hoc Committee of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico (known locally as the Northern New Mexico Citizens' Advisory Board [NNMCAB]). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, August 14, 2013; 2:00 p.m.–4:00 p.m.

ADDRESSES: NNMCAB Conference Room, 94 Cities of Gold Road, Pojoaque, NM 87506.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *menice.santistevan@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the

areas of environmental restoration, waste management, and related activities.

Purpose of the Environmental Monitoring and Remediation Committee (EM&R): The EM&R Committee provides a citizens' perspective to NNMCAB on current and future environmental remediation activities resulting from historical Los Alamos National Laboratory operations and, in particular, issues pertaining to groundwater, surface water and work required under the New Mexico Environment Department Order on Consent. The EM&R Committee will keep abreast of DOE–EM and site programs and plans. The committee will work with the NNMCAB to provide assistance in determining priorities and the best use of limited funds and time. Formal recommendations will be proposed when needed and, after consideration and approval by the full NNMCAB, may be sent to DOE–EM for action.

Purpose of the Waste Management (WM) Committee: The WM Committee reviews policies, practices and procedures, existing and proposed, so as to provide recommendations, advice, suggestions and opinions to the NNMCAB regarding waste management operations at the Los Alamos site.

Purpose of the Waste Isolation Pilot Plant (WIPP) Ad Hoc Committee: The WIPP Ad Hoc Committee is preparing a recommendation on priorities at WIPP. The committee will be disbanded upon completion of the draft recommendation.

Tentative Agenda:

1. 2:00 p.m. Approval of Agenda
2. 2:05 p.m. Approval of Minutes of July 10, 2013
3. 2:10 p.m. Old Business
   - Status on Fiscal Year 2014 Committee Workplan Development
4. 2:15 p.m. New Business
   - Comment letter on ''WIPP Permit Modification Request''
5. 2:40 p.m. Update from Executive Committee—Carlos Valdez, Chair
6. 2:50 p.m. Update from DOE—Lee Bishop, Deputy Designated Federal Officer
7. 3:00 p.m. Presentation by Los Alamos National Laboratory
   - Briefing on DOE Office of Inspector General Audit Report ''Mitigation of Natural Disasters at Los Alamos National Labs''
8. 3:45 p.m. Public Comment Period
9. 4:00 p.m. Adjourn

Public Participation: The NNMCAB's Committees welcome the attendance of the public at their combined committee meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Committees either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/.*

Issued at Washington, DC, on July 19, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–17892 Filed 7–24–13; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Saturday, August 17, 2013 8:00 a.m.–12: 00 p.m.

ADDRESSES: Holiday Inn, 3230 Parkway, P O Box 1383, Pigeon Forge, Tennessee 37868.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 576–0956 or email: *noemp@emor.doe.gov* or check the Web site at *www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Welcome—David Hemelright.
- Objectives, Logistics, Keys to Success—Jenny Freeman.
- Comments from the Deputy Designated Federal Officer, Susan Cange.
- Board Mission and Accomplishments—David Hemelright.
- Board Operations—Jenny Freeman.
- Break.
- Work Plan Topics Presentation & Discussion—Dave Adler, Panel.
  - Agency Suggestions.
  - Suggestions from Members.
  - Prioritization of Topics and Assignment to Committees.
  - Committee Membership Sign-up.
- Wrap-up—Jenny Freeman.
- Presentation of the Slate of Candidates for Fiscal Year 2014 Officers—Nominating Committee Chair.
- Public Comment Period.
- Closing Remarks—Melyssa Noe, David Hemelright.

Public Participation: The EM SSAB, Oak Ridge, 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 Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.oakridge.doe.gov/em/ssab/board-minutes.html.*

Issued at Washington, DC on July 19, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–17889 Filed 7–24–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board (STEAB)

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

ACTION: Notice of Open Teleconference.

SUMMARY: This notice announces a teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, August 15, 2013, from 3:30 p.m. to 4:00 p.m. (EDT). To receive the call-in number and passcode, please contact the Board's Designated Federal Officer (DFO) at the address or phone number listed below.

FOR FURTHER INFORMATION CONTACT: Gil Sperling, STEAB Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC, 20585. Phone number is (202) 287–1644.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Receive an update on the activities of the STEAB's Taskforces and discuss the formation of new Taskforces to assist EERE with the Clean Energy Manufacturing Initiative and other proposed programs, provide an update to the Board on routine business matters and EERE areas of interest, follow-up on outstanding items from the recent STEAB live meeting, and work on agenda items and details for the October 2013 meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gil Sperling at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site at: *www.steab.org.*

Issued at Washington, DC, on July 18, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–17893 Filed 7–24–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–516–000]

EcoEléctrica, L.P.; Notice of Application

Take notice that on July 3, 2013, EcoEléctrica, L.P. (EcoEléctrica), Road 337, Km. 3.7, Bo. Tallaboa Poniente, Peñuelas, PR 00624, filed an application in Docket No. CP13–516–000 under section 3 of the Natural Gas Act (NGA), and Part 153 and 380 of the Commission's regulations for an amendment to the authorization granted by the Commission on May 15, 1996 in Docket No. CP95–35–000, as amended on April 16, 2009 in Docket No. CP95–35–001. EcoEléctrica requests authorization to site, construct, and operate the LNG Supply Pipeline Project (Project) at its existing liquefied natural gas (LNG) terminal and cogeneration facility site in Peñuelas, Puerto Rico in order to enable EcoEléctrica to supply LNG to a proposed non-jurisdictional LNG truck loading facility (LNG Truck Loading Facility) that is being developed and permitted by Gas Natural Puerto Rico, Inc. (GNPR), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Jaime L. Sanabria, EcoEléctrica, L.P., Road 337, Km. 3.7, Bo. Tallaboa Poniente, Peñuelas, PR 00624, (787) 759–0202, or by email at *jaime.sanabria@ecoelectrica.com.*

EcoEléctrica proposes to construct and operate the LNG Supply Pipeline Project, which is consists of: (1) Approximately 0.4 mile 4-inch diameter LNG transfer pipeline; (2) approximately 0.4 mile 6-inch diameter boil off gas return pipeline; (3) approximately 0.4 mile 1.5-inch diameter LNG recirculation pipeline; and (4) associated equipment. The project is being developed to supply LNG to GNPR proposed non-jurisdictional LNG Truck Loading Facilitiy, which will be utilized to distribute LNG by truck to various industrial end-users in Puerto Rico.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and

by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: August 8, 2013.

Dated: July 18, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–17814 Filed 7–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–520–000]

EQT Gathering LLC; Notice of Application for Limited Jurisdiction Certificate

Take notice that on July 15, 2013, EQT Gathering LLC (EQT), 625 Liberty Avenue, Suite 1700, Pittsburgh, Pennsylvania 15222–3111, filed an application under Section 7 of the Natural Gas Act and Part 157 the Commission's Rules and Regulations for authorization to enable EQT to provide limited, ancillary jurisdictional service on its planned Derry Compressor Station (Derry Facilities) in Westmoreland, Pennsylvania. EQT plans to construct, own, and operate Derry for the primary purpose of providing non-jurisdictional compression services to increase the capacity and operational reliability of EQT's gathering facilities in southwestern Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The Derry Facilities, will consist of a compressor station with three compressor engines totaling 14,205 horsepower, with design suction and discharge pressures of 250 psig and 1,050 psig. respectively. The Derry Facilities will receive locally produced pipeline-quality unprocessed gas from EQT's Three Rivers gathering system; dehydrate the gas; then discharge the gas via an approximately 200-foot discharge line into the Texas Eastern Transmission, LP system. The Derry Facilities will initially receive gas from the Three Rivers gathering system, and EQT anticipates that the Derry Facilities will also receive locally produced gas from other EQT Gathering facilities in the future. The Derry Facilities will gather gas to be compressed and redelivered into the interstate pipeline grid.

EQT seeks a certificate of limited jurisdiction to enable it to also provide limited, ancillary jurisdictional services on the Derry Facilities and waiver of filing and reporting requirements and annual charges that might otherwise apply. The Derry Facilities' primary function is gathering as part of EQT's gathering system, but EQT proposes to also receive a limited quantity of up to 50 megadecatherms per day of natural gas at the Derry Facilities from a new interconnect with the Peoples Natural Gas Company's (Peoples) TP–371 pipeline (TP–371) in Westmoreland County, Pennsylvania. TP–371 is primarily a 12-inch diameter pipeline for which Peoples has limited authority from the Commission to provide interstate service. The operator of the TP–371 Line will deliver gas into the Texas Eastern system through EQT's 200 foot discharge line after the gas is compressed by the planned Derry Facilities.

The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any questions regarding this Application should be directed to Paul W. Diehl, EQT Corporation, 625 Liberty Avenue, Suite 1700, Pittsburgh, Pennsylvania 15222–3111, telephone no. (412) 395–5540, facsimile no. (412) 553–7781 and email *PDiehl@eqt.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project

should, before the comment date of this notice, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: 5:00 p.m. Eastern Time on August 8, 2013.

Dated: July 18, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–17815 Filed 7–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1076–000.
Applicants: Texas Eastern Transmission, LP.
Description: BG Energy 911034 11–1–2013 Negotiated Rate to be effective 11/1/2013.
Filed Date: 7/16/13.
Accession Number: 20130716–5048.
Comments Due: 5 p.m. ET 7/29/13.

Docket Numbers: RP13–1077–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: PAL Exhibit A Revision to be effective 8/19/2013.
Filed Date: 7/16/13.
Accession Number: 20130716–5150.
Comments Due: 5 p.m. ET 7/29/13.

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

Filings in Existing Proceedings

Docket Numbers: RP13–751–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Response of Algonquin Gas Transmission, LLC under.
Filed Date: 5/30/13.
Accession Number: 20130530–5167.
Comments Due: 5 p.m. ET 7/29/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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

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

Dated: July 17, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–17899 Filed 7–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER13–1990–001.
Applicants: Southwest Power Pool, Inc.
Description: Amendment—Docket No. ER13–1990—Attachment T Revisions to be effective 9/30/2013.
Filed Date: 7/18/13.
Accession Number: 20130718–5103.
Comments Due: 5 p.m. ET 8/8/13.

Docket Numbers: ER13–1991–000.
Applicants: Desert Sunlight 250, LLC.
Description: Desert Sunlight 250, LLC Application for Market-Based Rates to be effective 7/18/2013.
Filed Date: 7/17/13.
Accession Number: 20130717–5307.
Comments Due: 5 p.m. ET 8/7/13.

Docket Numbers: ER13–1992–000.
Applicants: Desert Sunlight 300, LLC.
Description: Desert Sunlight 300, LLC Application for Market-Based Rates to be effective 7/18/2013.
Filed Date: 7/17/13.
Accession Number: 20130717–5310.
Comments Due: 5 p.m. ET 8/7/13.

Docket Numbers: ER13–1993–000.
Applicants: Canadian Hills Wind, LLC.
Description: SFA Compliance Filing—June 24, 2013 Order to be effective 6/24/2013.
Filed Date: 7/18/13.
Accession Number: 20130718–5073.
Comments Due: 5 p.m. ET 8/8/13.

Docket Numbers: ER13–1994–000.
Applicants: California Independent System Operator Corporation.
Description: SCE Omnibus to be effective 1/1/2013.
Filed Date: 7/18/13.
Accession Number: 20130718–5076.
Comments Due: 5 p.m. ET 8/8/13.

Docket Numbers: ER13–1995–000.
Applicants: Southern California Edison Company.

Description: Unexecuted LGIA with Watson to be effective 8/1/2013.

Filed Date: 7/18/13.

Accession Number: 20130718–5099.

Comments Due: 5 p.m. ET 8/8/13.

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

Docket Numbers: ES13–36–000.

Applicants: PJM Interconnection, L.L.C.

Description: Application of PJM Interconnection, L.L.C. under Section 204 of the Federal Power Act for an Order Authorizing the Issuance of Securities.

Filed Date: 7/18/13.

Accession Number: 20130718–5108.

Comments Due: 5 p.m. ET 8/8/13.

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

Docket Numbers: RR13–7–000.

Applicants: North American Electric Reliability Corporation.

Description: Petition of North American Electric Reliability Corporation for Approval of Amendments to the Delegation Agreement with Texas Reliability Entity, Inc. and Request for Expedited Action.

Filed Date: 7/17/13.

Accession Number: 20130717–5343.

Comments Due: 5 p.m. ET 8/7/13.

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

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

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

Dated: July 18, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–17898 Filed 7–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1078–000.

Applicants: Dauphin Island Gathering Partners.

Description: 2013 Cash Out Refund Report for Dauphin Island Gathering Partners.

Filed Date: 7/17/13.

Accession Number: 20130717–5005.

Comments Due: 5 p.m. ET 7/29/13.

Docket Numbers: RP13–1079–000.

Applicants: Energy West Development, Inc.

Description: FT and IT rates to be effective 10/1/2013.

Filed Date: 7/17/13.

Accession Number: 20130717–5101.

Comments Due: 5 p.m. ET 7/29/13.

Docket Numbers: RP13–1081–000.

Applicants: Natural Gas Pipeline Company of America.

Description: NJR Energy Negotiated Rate to be effective 7/17/2013.

Filed Date: 7/17/13.

Accession Number: 20130717–5193.

Comments Due: 5 p.m. ET 7/29/13.

Docket Numbers: RP13–1082–000.

Applicants: Texas Eastern Transmission, LP.

Description: Texas Eastern Transmission, LP submits tariff filing per 154.203: Termination of Rate Schedules X–62 and X–121 to be effective 10/1/2013.

Filed Date: 7/17/13.

Accession Number: 20130717–5239.

Comments Due: 5 p.m. ET 7/29/13.

Docket Numbers: RP13–1083–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits tariff filing per 154.204: Renaissance Trading Negotiated Rate to be effective 7/17/2013.

Filed Date: 7/17/13.

Accession Number: 20130717–5256.

Comments Due: 5 p.m. ET 7/29/13.

Docket Numbers: RP13–1084–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits tariff filing per 154.204: Macquarie Negotiated Rate to be effective 7/17/2013.

Filed Date: 7/17/13.

Accession Number: 20130717–5295.

Comments Due: 5 p.m. ET 7/29/13.

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

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

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

Dated: July 18, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–17900 Filed 7–24–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9838–9]

Environmental Laboratory Advisory Board; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Charter Renewal.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Environmental Laboratory Advisory Board (ELAB) is a necessary committee, which is in the public interest. Accordingly, ELAB will be renewed for an additional two-year period. The purpose of the ELAB is to provide advice and recommendations to the Administrator of EPA on issues associated with enhancing EPA's measurement programs and the systems and standards of environmental accreditation. Inquiries may be directed to Lara P. Phelps, Senior Advisor, U.S. Environmental Protection Agency, Office of the Science Advisor, 109 T W Alexander Drive (E243–05), Research Triangle Park, NC 27709 or by email: *phelps.lara@epa.gov.*

Dated: June 5, 2013.

Glenn Paulson,

Science Advisor.

[FR Doc. 2013–17922 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9838–8]

Request for Nominations for 2014 Clean Air Excellence Awards Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations for Clean Air Excellence Awards.

SUMMARY: This notice announces the competition for the 2014 Clean Air Excellence Awards Program. EPA established the Clean Air Excellence Awards Program in February 2000 to recognize outstanding and innovative efforts that support progress in achieving clean air.

DATES: All submissions of entries for the Clean Air Excellence Awards Program must be postmarked by September 27, 2013.

FOR FURTHER INFORMATION CONTACT: Additional information on this awards program, including the entry form, can be found on EPA's Clean Air Act Advisory Committee (CAAAC) Web site: *http://www.epa.gov/oar/cleanairawards/index.html.* Any member of the public who wants further information may contact Ms. Jeneva Craig, Designated Federal Officer (DFO), Office of Air and Radiation, U.S. EPA by telephone at (202) 564–1674 or by email at *craig.jeneva@epa.gov.*

SUPPLEMENTARY INFORMATION: Awards Program Notice: Pursuant to 42 U.S.C. 7403(a)(1) and (2) and sections 103(a)(1) and (2) of the Clean Air Act (CAA), notice is hereby given that the EPA's Office of Air and Radiation (OAR) announces the opening of competition for the 2014 Clean Air Excellence Awards Program (CAEAP). The intent of the program is to recognize and honor outstanding, innovative efforts that help to make progress in achieving cleaner air. The CAEAP is open to both public and private entities. Entries are limited to efforts related to air quality in the United States. There are five general award categories: (1) Clean Air Technology; (2) Community Action; (3) Education/Outreach; (4) Regulatory/Policy Innovations; and (5) Transportation Efficiency Innovations. There are also two special awards categories: (1) Thomas W. Zosel Outstanding Individual Achievement Award; and (2) Gregg Cooke Visionary Program Award. Awards are given periodically and are for recognition only.

Entry Requirements: All applicants are asked to submit their entry on a CAEAP entry form, contained in the CAEAP Entry Package, which may be obtained from the CAAAC Web site at *http://www.epa.gov/air/cleanairawards/entry.html.* Applicants can also contact Ms. Jeneva Craig, Office of Air and Radiation, U.S. EPA by telephone at (202) 564–1674 or by email at *craig.jeneva@epa.gov.* The entry form is a simple, three-part form asking for general information on the applicant; a narrative description of the project; and three (3) independent references for the proposed entry. Applicants should also submit additional supporting documentation as necessary. Specific directions and information on filing an entry form are included in the Entry Package.

Judging and Award Criteria: EPA staff will use a screening process, with input from outside subject experts, as needed. Members of the CAAAC will provide advice to EPA on the entries. The EPA Assistant Administrator for Air and Radiation will make the final award decisions. Entries will be judged using both general criteria and criteria specific to each individual category. These criteria are listed in the 2014 Entry Package.

Dated July 18, 2013.

Jeneva Craig,

Designated Federal Officer, Clean Air Act Advisory Committee, Office of Air and Radiation.

[FR Doc. 2013–17923 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9838–5]

Children's Health Protection Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Nominations to the Children's Health Protection Advisory Committee.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a range of qualified candidates to be considered for appointment to its Children's Health Protection Advisory Committee. Vacancies are anticipated to be filled by December 2013. Sources in addition to this **Federal Register** Notice may also be used to solicit nominees.

SUPPLEMENTARY INFORMATION: The Children's Health Protection Advisory Committee is chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. EPA established this Committee in 1997 to provide independent advice to the EPA Administrator on a broad range of environmental issues affecting children's health.

Members are appointed by the EPA Administrator for two year terms with a cap on service at six years. The Committee meets 2–3 times annually and the average workload is approximately 10 to 15 hours per month. EPA provides reimbursement for travel and other incidental expenses associated with official government business, but members must be able to cover expenses prior to reimbursement.

The CHPAC is looking for representatives from the private sector, state and local government, academia (including a graduate level student representative), NGOs, public health practitioners, pediatricians, obstetrics, occupational medicine, community nurses, environmental groups, health groups, health research, epidemiology and toxicology.

We are looking for experience in children's environmental health policy, research, and in specific issues such as lead poisoning and asthma, prenatal environmental exposures, chemical exposures, public health information tracking, knowledge of EPA regulation development, risk assessment, exposure assessment, tribal children's environmental health and children's environmental health disparities. EPA encourages nominations from all racial and ethnic groups.

The following criteria will be used to evaluate nominees:

—The ability of candidate to effectively contribute to discussions and provide useful recommendations on the following issues: Risk assessment, exposure assessment and children's health; Air quality, both indoor and outdoor, regulations, policies, outreach and communication; Water quality, regulations, policies, outreach and communication; Prenatal exposures and health outcomes; Chemical exposures, pesticide exposures, health outcomes, policy and regulation; Asthma disparities and other environmental health disparities; Data and information collection issues; Lead, mercury and other heavy metal concerns for children's health; Exposures that affect children's health in homes, schools, child care centers; Building capacity among health providers to

prevent, diagnose and treat environmental health conditions in children.

—The background and experience that would contribute to the diversity of perspectives on the committee (e.g., geographic, economic, social, cultural, educational, and other considerations).

—Ability to volunteer time to attend meetings 2–3 times a year in Washington, DC, participate in teleconference meetings, develop recommendations to the Administrator, and prepare reports and advice letters.

Nominations must include a short statement of interest, resume and a short biography describing the professional and educational qualifications of the nominee, attestation that nominee is not a lobbyist, a statement about the perspective and diversity the nominee brings to the committee, as well as the nominee's current business address, email address, and daytime telephone number. Candidates may self-nominate.

Submit nominations by September 20, 2013 by email to *berger.martha@epa.gov* or mail to: Martha Berger, Designated Federal Officer, Office of Children's Health Protection, U.S. Environmental Protection Agency, Mail Code 1107T, 1301 Constitution Avenue NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Martha Berger, Designated Federal Officer, U.S. EPA; telephone (202) 564–2191 or *berger.martha@epa.gov.*

Dated: July 17, 2013.

Martha Berger,

Designated Federal Officer.

[FR Doc. 2013–17924 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0480; FRL–9392–2]

Notice of Receipt of Requests for Amendments To Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of request for amendments by registrants to delete uses in certain pesticide registrations. FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request in the **Federal Register**.

DATES: The deletions in Table 1 are effective August 26, 2013, because the registrants requested a waiver of the 180-day comment period, unless the Agency receives a written withdrawal request on or before August 26, 2013. The Agency will consider a withdrawal request postmarked no later than August 26, 2013.

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant in Table 1 before August 26, 2013.

ADDRESSES: Submit your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2013–0480, by one of the following methods:

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 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 visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Christopher Green, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket ID number EPA–HQ–OPP–2013–0480, is available either electronically through *http://www.regulations.gov* or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in certain pesticide registrations. These registrations are listed in Table 1 of this unit by registration number, product name, active ingredient, and specific uses deleted.

TABLE 1—REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA registration No.	Product name	Active ingredient	Delete from label
100–864	Cyproconazole Technical.	Cyproconazole	Directions for Use on Roses.
100–1132	Envoke Herbicide	2-Pyridinesulfonamide, N-[[(4,6-dimethoxy-2-pyrimidinyl)amino]carbonyl]-3-(2,2,2-trifluoroethoxy)-, monosodium salt, monohydrate.	Use on Almonds, as well as all references made to application in the State of California.
100–1225	Quadris Xtra Fungicide	Cyproconazole & Azoxystrobin	Directions for Use on Roses.
100–1226	Alto 100SL Fungicide	Cyproconazole	Directions for Use on Roses

TABLE 1—REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA registration No.	Product name	Active ingredient	Delete from label
42182–1	Microban Additive "B"	Triclosan	Use in Paints and Stains, Agricultural and Mulch Films and Paper Mulch.
42182–7	Microban Additive "B"	Triclosan	Use in Paints and Stains, Agricultural and Mulch Films and Paper Mulch.
59106–1	Bio-Clear 1000	2,2-Dibromo-3-nitrilopropionamide	"Once-through" Cooling water applications, Metal working fluids "high" exposure applications, Paints and Coatings, and Household/Institutional Cleaners/Detergents.
59106–5	DBNPA Technical	2,2-Dibromo-3-nitrilopropionamide	"Once-through" Cooling water applications, Metal working fluids "high" exposure applications, Paints and Coatings, and Household/Institutional Cleaners/Detergents.
59106–6	Bio-Clear 2000	2,2-Dibromo-3-nitrilopropionamide	"Once-through" Cooling water applications, Metal working fluids "high" exposure applications, Paints and Coatings, and Household/Institutional Cleaners/Detergents.
59106–7	Bio-Clear 5000	2,2-Dibromo-3-nitrilopropionamide	"Once-through" Cooling water applications, Metal working fluids "high" exposure applications, Paints and Coatings, and Household/Institutional Cleaners/Detergents.
83851–5	Technical Imidacloprid	Imidacloprid	Use on Companion animals.

Users of these products who desire continued use on animals, crops, or sites being deleted should contact the applicable registrant before August 26, 2013, because the registrants requested a waiver of the 180-day comment period, to discuss withdrawal of the application for amendment. This 30-day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

Table 2 of this unit includes the names and addresses of record for all registrants of the products listed in Table 1 of this unit, in sequence by EPA company number.

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA company No.	Company name and address
100	Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–8300.
42182	Microban Products Company, 11400 Vanstory Drive, Huntersville, NC 28078.
59106	Clearwater International, LLC, D/B/A Weatherford Engineered Chemistry, 2000 St. James Place, Houston, TX 77056.
83851	AmTide, LLC, 21 Hubble, Irvine, CA 92618.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the EPA Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit the withdrawal in writing to Christopher Green using the methods in **ADDRESSES**. The Agency will consider written withdrawal requests postmarked no later than August 26, 2013.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 8, 2013.

Oscar Morales,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2013–17926 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Final Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final notice of information collection under review; ADEA waivers.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (Commission or EEOC) gives notice that it has submitted to the Office of Management and Budget (OMB) a request for an extension without change of the existing collection requirements under 29 CFR 1625.22, Waivers of rights and claims under the Age Discrimination in Employment Act (ADEA). No public comments were received in response to the EEOC's May 14, 2013 60-Day notice

soliciting comments on the proposed extension of this collection.

DATES: Written comments on this notice must be submitted on or before August 26, 2013.

ADDRESSES: The Request for Clearance (OMB 83–I), supporting statement, and other documents submitted to OMB for review may be obtained from: Danielle J. Hayot, Attorney-Advisor, Office of Legal Counsel, 131 M Street NE., Washington, DC 20507. Comments on this final notice must be submitted to Chad A. Lallemand, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Room 10235, New Executive Office Building, Washington, DC 20503 or electronically mailed to *Chad_A._Lallemand@omb.eop.gov.* Comments should also be submitted to Bernadette B. Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE., Suite 6NE03F, Washington, DC 20507. Comments of six or fewer pages in length may be transmitted to the EEOC's Executive Secretariat by facsimile (''FAX'') machine at (202) 663–4114. (This is not a toll-free-number.) This page limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TDD). (These are not toll-free-telephone numbers.) Instead of sending written comments to EEOC, comments may be submitted to EEOC electronically on the Federal eRulemaking Portal: *http://www.regulations.gov.* After accessing this Web site, follow its instructions for submitting comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information you provide. Copies of the received comments also will be available for inspection, by advance appointment only, in the EEOC Library from 9 a.m. to 5 p.m., Monday through Friday except legal holidays. Persons who schedule an appointment in the EEOC Library and need assistance to view the comments will be provided with appropriate aids upon request, such as readers or print magnifiers. To schedule an appointment to inspect the comments at the EEOC Library, contact the EEOC Library by calling (202) 663–4630 (voice) or (202) 663–4641 (TTY).

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, at (202) 663–4640, or Danielle J. Hayot, Attorney-Advisor, at (202) 663–4695, or TTY (202) 663–7026. This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION:

Overview of This Information Collection

Collection Title: Informational requirements under Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA), 29 CFR 1625.22.

OMB Number: 3046–0042.

Type of Respondent: Business, State or local governments, not for profit institutions.

Description of Affected Public: Any employer with 20 or more employees that seeks waiver agreements in connection with an exit incentive or other employment termination program.

Number of Responses: 17,080.

Reporting Hours: 25,620.

Number of Forms: None.

Burden Statement: The only paperwork burden involved is the inclusion of the relevant data in requests for waiver agreements under the OWBPA.

Abstract: The EEOC enforces the Age Discrimination in Employment Act (ADEA) which prohibits discrimination against employees and applicants for employment who are age 40 or older. The OWBPA, enacted in 1990, amended the ADEA to require employers to disclose certain information to employees (but not to EEOC) in writing when they ask employees to waive their rights under the ADEA in connection with an exit incentive program or other employment termination program. The regulation at 29 CFR 1625.22 reiterates those disclosure requirements. The EEOC seeks an extension without change for the third-party disclosure requirements contained in this regulation. On May 14, 2013, the Commission published a 60-Day Notice informing the public of its intent to request an extension of the information collection requirements from the Office of Management and Budget. 78 FR 28214–28215 (May 14, 2013). No comments were received.

Dated: July 19, 2013.

For the Commission.

Jacqueline A. Berrien,

Chair.

[FR Doc. 2013–17910 Filed 7–24–13; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comment on renewal of the information collection described below.

DATES: Comments must be submitted on or before September 23, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently-approved collection of information:

Title: Application for Consent to Exercise Trust Powers.

OMB Number: 3064–0025.

Form Number: FDIC 6200/09.

Frequency of Response: On occasion.

Affected Public: Insured State nonmember banks wishing to exercise trust powers.

Estimated Number of Respondents: 15

Estimated Time per Response for Eligible Depository Institutions: 8 hours.

Estimated Time per Response for Institutions That Do Not Qualify as Eligible Institutions: 24 hours.

Total Estimated Annual Burden: 200 hours.

General Description of Collection: FDIC regulations (12 CFR 333.2) prohibit any insured State nonmember bank from changing the general character of its business without the prior written consent of the FDIC. The exercise of trust powers by a bank is usually considered to be a change in the general character of a bank's business if the bank did not exercise those powers previously. Therefore, unless a bank is currently exercising trust powers, it must file a formal application to obtain the FDIC's written consent to exercise trust powers. State banking authorities, not the FDIC, grant trust powers to their banks. The FDIC merely consents to the exercise of such powers. Applicants use form FDIC 6200/09 to obtain FDIC's consent.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 22th day of July 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–17872 Filed 7–24–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take the opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). On April 23, 2013, the FDIC requested comment for 60 days on a proposal to renew the following information collections: Securities of Insured Nonmember Banks, OMB Control No. 3064–0030, Activities and Investments of Savings Associations, OMB Control No. 3064–0104, and Forms Relating to Outside Counsel, Legal Support & Expert Services, OMB Control No. 3064–0122. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on these renewals.

DATES: Comments must be submitted on or before August 26, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently-approved collections of information:

1. *Title:* Securities of Insured Nonmember Banks.

OMB Number: 3064–0030.

Form Numbers: 6800/03, 6800/04, and 6800/05.

Affected Public: Generally, any person subject to section 16 of the Securities Exchange Act of 1934 with respect to securities registered under 12 CFR part 335.

Estimated Number of Respondents: Form 6800/03—57; Form 6800/04—296; Form 6800/05—68.

Estimated Time per Response: Form 6800/03—1 hour; Form 6800/04—30 minutes; Form 6800/05—1 hour.

Frequency of Response: Form 6800/03—annually; Form 6800/04—quarterly; Form 6800/05—annually.

Total estimated annual burden: 717 hours.

General Description of Collection: FDIC bank officers, directors, and persons who beneficially own more than 10% of a specified class of registered equity securities are required to publicly report their transactions in equity securities of the issuer.

2. *Title:* Activities and Investments of Savings Associations.

OMB Number: 3064–0104.

Form Number: None.

Affected Public: Insured financial institutions.

Estimated Number of Respondents: 75.

Frequency of Response: On occasion.

Estimated Annual Burden Hours per Response: 5 hours.

Total estimated annual burden: 375 hours.

General Description of Collection: Section 28 of the FDI Act (12 U.S.C. 1831e) imposes restrictions on the powers of savings associations, which reduce the risk of loss to the deposit insurance funds and eliminate some differences between the powers of state associations and those of federal associations. Some of the restrictions apply to all insured savings associations and some to state chartered associations only. The statute exempts some federal savings banks and associations from the restrictions, and provides for the FDIC to grant exemptions to other associations under certain circumstances. In addition, Section 18(m) of the FDI Act (12 U.S.C. 1828(m)) requires that notice be given to the FDIC prior to an insured savings association (state or federal) acquiring, establishing, or conducting new activities through a subsidiary.

3. *Title:* Forms Relating to Outside Counsel, Legal Support & Expert Services.

OMB Number: 3064–0122.

Affected Public: Insured financial institutions.

Estimated Number of Respondents and Burden Hours:

FDIC document	Estimated number of respondents	Estimated hours per response	Hours of burden
5000/26	85	.50	42.5
5000/31	376	.50	188
5000/33	63	.50	31.5
5000/35	722	.50	361
5200/01	500	.75	375
5210/01	100	.50	50
5210/02	55	.50	22.5
5210/03	50	1.0	50
5210/03A	50	1.0	50
5210/04	200	1.0	200
5210/04A	200	1.0	200
5210/06	100	1.0	100
5210/06(A)	100	1.0	100
5210/08	240	.50	120
5210/09	100	1.0	100
5210/10	100	1.0	100
5210/10(A)	100	1.0	100
5210/11	100	1.0	100
5210/12	100	1.0	100
5210/12A	100	1.0	100
5210/14	100	.50	50
5210/15	25	.50	12.5
Total	3,566		2,553

General Description of Collection: The information collected enables the FDIC to ensure that all individuals, businesses and firms seeking to provide legal support services to the FDIC meet the eligibility requirements established by Congress. The information is also used to manage and monitor payments to contractors, document contract amendments, expiration dates, billable individuals, minority law firms, and to ensure that law firms, experts, and other legal support services providers are in compliance with statutory and regulatory requirements.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 22nd day of July 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–17896 Filed 7–24–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Cynthia Ayouch—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551. OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW.,Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with minor revision, of the following report:

Report title: Report of Selected Balance Sheet Items for Discount Window Borrowers.

Agency form number: FR 2046.

OMB control number: 7100–0289.

Frequency: On occasion.

Reporters: Depository institutions.

Estimated annual reporting hours: Primary and Secondary Credit, 1 hour; Seasonal Credit, 228 hours.

Estimated average hours per response: Primary and Secondary Credit, 0.75 hours; Seasonal Credit, 0.25 hours.

Number of respondents: Primary and Secondary Credit, 1; Seasonal Credit, 70.

General description of report: This information collection is required to obtain a benefit pursuant to section 10B and 19(b)(7) of the Federal Reserve Act (12 U.S.C. 347b and 461(b)(7)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The Federal Reserve's Regulation A, Extensions of Credit by Federal Reserve Banks, requires that Reserve Banks review balance sheet data in determining whether to extend credit and to help ascertain whether undue use is made of such credit. Depository institutions that borrow from the discount window report on the FR 2046 certain balance sheet data for a period

that encompasses the dates of borrowing.

Current Action: On May 16, 2013, the Federal Reserve published a notice in the **Federal Register** (78 FR 28846) seeking public comment for 60 days on the extension, with minor revision, of the FR 2046. The comment period for this notice expired on July 15, 2013. The Federal Reserve did not receive any comments. The revision will be implemented as proposed.

Final approval under OMB delegated authority of the implementation of the following report:

Report title: Payments Research Survey.

Agency form number: FR 3067.

OMB control number: 7100-new.

Frequency: On occasion.

Reporters: Depository institutions; financial and nonfinancial businesses and related entities; individual consumers; or households.

Estimated annual reporting hours: 60,000 hours.

Estimated average hours per response: 3 hours.

Number of respondents: 5,000.

General description of report: The Federal Reserve has determined that this survey is generally authorized by sections 2A and 12A of the Federal Reserve Act (FRA). Section 2A of the FRA requires that the Federal Reserve maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of the maximum employment, stable prices, and moderate long-term interest rates. *See* 12 U.S.C. 225a. In addition, under section 12A of the FRA, the Federal Reserve is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks with a view to accommodating commerce and business and with regard to the regulations' bearing upon the general credit situation of the country. *See* 12 U.S.C. 263. The authority of the Federal Reserve to collect economic data to carry out the requirements of these provisions is implicit. Accordingly, the Federal Reserve is authorized to use the FR 3067 by sections 2A and 12A of the FRA.

Additionally, depending on the survey respondent, the information collection may be authorized under a more specific statute. These statutes are:

- Expedited Funds Availability Act § 609 (12 U.S.C. 4008)
- Electronic Fund Transfer Act § 920 (15 U.S.C. 1693o–2)
- The Check Clearing for the 21st Century Act § 15 (12 U.S.C. 5014)
- Federal Reserve Act § 11 (Examinations and reports, Supervision over Reserve Banks, and Federal Reserve Note provisions, 12 U.S.C. 248); § 11A (Pricing of Services, 12 U.S.C. 248a); § 13 (FRB deposits and collections, 12 U.S.C. 342); and § 16 (Issuance of Federal Reserve notes, par clearance, and FRB clearinghouse, 12 U.S.C. 248–1, 360, and 411).

Under the appropriate authority, the Federal Reserve may make submission of survey information mandatory for entities such as financial institutions or payment card networks; submissions would otherwise be voluntary.

The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the FR 3067 surveys will be determined on a case-by-case basis depending on the type of information provided for a particular survey. For instance, in some circumstance, no issue of confidentiality will arise as the surveys may be conducted by private firms under contract with the Federal Reserve and names or other directly identifying information would not be provided to the Federal Reserve. In circumstances where identifying information is provided to the Federal Reserve, such information could possibly be protected under the Freedom of Information Act (FOIA), exemptions 4 and 6. Exemption 4 protects information from disclosure of trade secrets and commercial or financial information, while exemption 6 protects information ''the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.'' *See* 5 U.S.C. 552(b)(4) and (6). If the survey is mandatory and is undertaken as part of the supervisory process, information could be protected under FOIA exemption 8, which protects information relating to the examination reports. *See* 5 U.S.C. 552(b)(8).

Abstract: The bank operations and payment systems functions of the Federal Reserve have occasional need to gather data on an ad-hoc basis from the public on their payment habits, economic condition, and financial relationships, as well as their attitudes, perceptions, and expectations. These data may be particularly needed in times of critical economic or regulatory change or when issues of immediate concern arise from Federal Reserve System committee initiatives and working groups or requests from the Congress. The Federal Reserve would use this event-driven survey to obtain information specifically tailored to the Federal Reserve's supervisory, regulatory, fiscal, and operational responsibilities. The Federal Reserve may conduct various versions of the survey during the year and, as needed, survey respondents up to four times per year. The frequency and content of the questions will depend on changing economic, regulatory, supervisory, or legislative developments.

Current Action: On May 16, 2013, the Federal Reserve published a notice in the **Federal Register** (78 FR 28846) seeking public comment for 60 days on the implementation of the FR 3067. The comment period for this notice expired on July 15, 2013. The Federal Reserve did not receive any comments. The survey will be implemented as proposed.

Board of Governors of the Federal Reserve System, July 22, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–17873 Filed 7–24–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 9, 2013.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Tad Wilson, and Arthur S. Parrish,* both of Spencer, Indiana; together as a group acting in concert, to acquire voting shares of Home Financial Bancorp, and thereby indirectly acquire voting shares of Our Community Bank, both in Spencer, Indiana.

Board of Governors of the Federal Reserve System, July 22, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–17901 Filed 7–24–13; 8:45 am]

BILLING CODE 6210–01–P

OFFICE OF GOVERNMENT ETHICS

Solicitation of Input From Stakeholders Regarding the U.S. Office of Government Ethics Strategic Plan (FY 2014–2017)

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice of Request for Public Comment.

SUMMARY: The U.S. Office of Government Ethics (OGE) is providing notice of request for public comment on its draft FY 2014–2017 Strategic Plan (Plan). The Plan describes OGE's priorities for the next four years. OGE will consider all comments received by the deadline. You may access the Plan at *www.oge.gov,* or you may obtain a copy of the Plan by sending an email request to *OGEStrategicPlan@oge.gov.*

DATES: All comments must be received on or before August 19, 2013.

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

Email: OGEStrategicPlan@oge.gov.

Mail, Hand Delivery/Courier: U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917, Attention: Nicole Stein, OGE Strategic Plan.

FOR FURTHER INFORMATION CONTACT: Nicole Stein, Program Analyst, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917; Telephone: 202–482–9255; TTY: 800–877–8339; Email: *nicole.stein@oge.gov.*

Dated: July 19, 2013.

Walter M. Shaub, Jr.

Director, U.S. Office of Government Ethics.

[FR Doc. 2013–17908 Filed 7–24–13; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention, announces the following meeting of the aforementioned committee:

Time and Date: 11:00 a.m.–3:00 p.m., September 5, 2013.

Place: Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1–866–659–0537 and the pass code is 9933701.

Status: Open to the public, but without a verbal public comment period. Written comment should be provided to the contact person below in advance of the meeting.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines, which have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, most recently, August 3, 2011, and will expire on August 3, 2013.

Purpose: This Advisory Board is charged with (a) Providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Discussed: The agenda for the conference call includes: Subcommittee and Work Group Updates; SEC Petition Evaluations Update for the October 2013 Advisory Board Meeting; Plans for the October 2013 Advisory Board Meeting; and Advisory Board Correspondence.

The agenda is subject to change as priorities dictate. Because there is not a public comment period, written comments may be submitted. Any written comments received will be included in the official record of the meeting and should be submitted to the contact person below in advance of the meeting.

Contact Person for More Information: Theodore M. Katz, M.P.A., Designated Federal Official, NIOSH, CDC, 1600 Clifton Rd. NE., Mailstop: E–20, Atlanta, GA 30333, Telephone (513)533–6800, Toll Free 1–800–CDC–INFO, Email *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–17867 Filed 7–24–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

Times and Dates:

8:30 a.m.–5:00 p.m., August 21, 2013

8:30 a.m.–12:00 p.m., August 22, 2013

Place: CDC, 1600 Clifton Road NE., Tom Harkin Global Communications Center, Building 19, Room 232, Auditorium B, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This Committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services; the Assistant Secretary for Health; the Director, Centers for Disease Control and Prevention; the Commissioner, Food and Drug Administration; and the Administrator, Centers for Medicare and Medicaid Services. The advice and guidance pertain to general issues related to improvement in clinical laboratory quality and laboratory

medicine practice and specific questions related to possible revision of the CLIA standards. Examples include providing guidance on studies designed to improve safety, effectiveness, efficiency, timeliness, equity, and patient-centeredness of laboratory services; revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards on medical and laboratory practice; and the modification of the standards and provision of non-regulatory guidelines to accommodate technological advances, such as new test methods and the electronic transmission of laboratory information.

Matters To Be Discussed: The agenda will include agency updates from the CDC, the Centers for Medicare & Medicaid Services (CMS), and the Food and Drug Administration (FDA). Presentations and discussions will include improving laboratory quality in diverse settings, to include sites that perform waived testing as well as laboratories implementing telehealth initiatives such as digital pathology. Advancing laboratory interoperability in health information technology will also be discussed.

Agenda items are subject to change as priorities dictate.

Webcast: The meeting will also be Webcast. Persons interested in attending the in-person meeting or viewing the Webcast can access information about doing so at this URL: *http://wwwn.cdc.gov/cliac/default.aspx*

Online Registration Required: All in-person CLIAC attendees are required to register for the meeting online at least 5 business days in advance for U.S. citizens and at least 10 business days in advance for international registrants. Register at *http://wwwn.cdc.gov/cliac/default.aspx* by scrolling down and clicking the appropriate link under ''Meeting Registration'' (either U.S. Citizen Registration or Non-U.S. Citizen Registration) and completing all forms according to the instructions given. Please complete all the required fields before submitting your registration and submit no later than August 14, 2013 for U.S. registrants and August 7, 2013 for international registrants.

Providing Oral or Written Comments: It is the policy of CLIAC to accept written public comments and provide a brief period for oral public comments whenever possible. *Oral Comments:* In general, each individual or group requesting to make an oral presentation will be limited to a total time of five minutes (unless otherwise indicated). Speakers must also submit their comments in writing for inclusion in the meeting's Summary Report. To assure adequate time is scheduled for public comments, individuals or groups planning to make an oral presentation should, when possible, notify the contact person below at least one week prior to the meeting date. *Written Comments:* For individuals or groups unable to attend the meeting, CLIAC accepts written comments until the date of the meeting (unless otherwise stated). However, it is requested that comments be submitted at least one week prior to the meeting date so that the comments may be made available to the Committee for their consideration and public distribution. Written comments, one hard copy with original signature, should be provided to the contact person below. Written comments will be included in the meeting's Summary Report.

Availability of Meeting Materials: To support the green initiatives of the federal government, the CLIAC meeting materials will be made available to the Committee and the public in electronic format (PDF) on the internet instead of by printed copy. Check the CLIAC Web site on the day of the meeting for materials. Note: If using a mobile device to access the materials, please verify the device's browser is able to download the files from the CDC's Web site before the meeting. Alternatively, the files can be downloaded to a computer and then emailed to the portable device. An internet connection, power source and limited hard copies may be available at the meeting location, but cannot be guaranteed. *http://wwwn.cdc.gov/cliac/cliac_meeting_all_documents.aspx*

Contact Person for Additional Information: Nancy Anderson, Chief, Laboratory Practice Standards Branch, Division of Laboratory Science and Standards, Laboratory Science, Policy and Practice Program Office, Office of Surveillance, Epidemiology and Laboratory Services, CDC, 1600 Clifton Road NE., Mailstop F–11, Atlanta, Georgia 30329–4018; telephone (404) 498–2741; fax (404) 498–2210; or via email at *NAnderson@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–17868 Filed 7–24–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0977]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *Daniel.Gittleson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On April 10, 2013, the Agency submitted a proposed collection of information entitled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0312. The approval expires on July 31, 2016. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: July 19, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–17835 Filed 7–24–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Fetal Alcohol Spectrum Disorders (FASD) Center for Excellence (CFE) Screening and Brief Intervention (SBI) Project and Project CHOICES Evaluation (OMB No. 0930–0302)—Reinstatement

Since 2001, SAMHSA's Center for Substance Abuse Prevention has been operating the SAMHSA Fetal Alcohol Spectrum Disorders (FASD) Center for Excellence (CFE). The purpose of the FASD Center for Excellence is to prevent alcohol-exposed pregnancies among women of childbearing age and pregnant women and to improve the quality of life for individuals affected by FASD. Data will be collected from women served across approximately 10 sites in local/community-based agencies. Women will be screened for alcohol use, and provided appropriate interventions based on their pregnancy status.

The FASD CFE will be integrating Screening and Brief Intervention (SBI) for pregnant women and Project CHOICES for non-pregnant women through service delivery organizations and will monitor the results. Approximately 10 sites will implement the SBI program and/or Project CHOICES.

At baseline, an assessment form will be administered by the counselor to screen women at the participating sites or health care delivery programs. Basic demographic data will be collected for all women screened (age, race/ethnicity, education, and marital status) at baseline by participating sites but no personal identification information will be transmitted to SAMHSA. Both quantity and frequency of drinking will be assessed for all women. Pregnant women will be assessed for risk of alcohol use using the TWEAK screening instrument, which has been used successfully with pregnant women. Non-pregnant women will be assessed for ability to conceive and use of effective birth control.

SBI focuses on 10- to 15-minute counseling sessions, conducted by a counselor who will use a scripted manual to guide the program. Participants in SBI will be assessed throughout their pregnancy to monitor alcohol use, referred for additional services to support their efforts to stop drinking, and will be provided with the 10–15 minute program until the client abstains from alcohol. Clients will be followed up until their 36th week of pregnancy. At each process visit, the quantity and frequency of drinking will be assessed and the client's goals for drinking will be recorded. In addition, process level variables will be assessed to understand how the program is being implemented (e.g., whether SBI was delivered; duration of the program; what referrals were made; client satisfaction). At the 36th week of pregnancy quantity and frequency of drinking will be assessed, and the client's satisfaction with the program will be recorded.

For those who screen positive for Project CHOICES (non-pregnant women 18–44 years who are at risk for an alcohol-exposed pregnancy), the program will provide two Motivational Interviewing (MI) sessions related to alcohol use, plus one contraceptive counseling session. The goal is to help these women prevent an alcohol-exposed pregnancy by abstaining from alcohol and using contraceptive methods of their choice consistently and correctly. At the end of the Project CHOICES program, women are assessed on their alcohol consumption and contraceptive use in the past 30 days, and their satisfaction with the program is recorded. At 3 months and 6 months after the end of the program, women are assessed on 30-day alcohol consumption and contraceptive use using the same core assessment form that was used at baseline.

All participating sites will maintain personally identifiable information of their clients for service delivery purposes, but the sites will keep such information private to the maximum extent allowable by laws. Data will be collected at the site level and sites will be instructed to keep personal data secure in a specified location. To further ensure privacy of individual responses, all data will be reported at the aggregate level so that individual responses cannot be identified; no data will be reported at the individual participant level. Furthermore, data will be collected to meet the criteria of a ''limited data set'' as defined in the Privacy Regulations issued under the Health Insurance Portability and Accountability Act (HIPAA), (HIPAA Privacy Rule, 45 CFR _ 164.501) [45 CFR 164.514(e)(4)(ii)]. A computer generated coding system will be used to identify the records, and access to records will be limited only to authorized personnel. In addition, the identifiers will be stored separately from the data. No direct identifiers will be included in order for the data to be considered a ''limited data set.'' A summary of the actions the contractors will take in order to comply with HIPAA follows:

- Ensure that the personal health information respondents disclose to outside entities does not violate the Privacy Rule.
- When creating a unique identification code, ensure that the code does not contain information that can be used to identify the individual.
- Sign a data agreement that states all HIPAA requirements will be adhered to consistent with a limited data set.
- Agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

The data collection is designed to monitor the implementation of the proposed programs by measuring whether abstinence from alcohol is achieved, and for Project CHOICES by measuring whether effective birth control practices are performed. Furthermore, the program will include process measures to monitor how the interventions were provided.

ESTIMATED ANNUALIZED BURDEN HOURS

Instrument/activity	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response	Total burden hours per collection
Pregnant Women (SBI)					
Baseline Assessment (Form A)	9,273	1	9,273	.25	2,318
Process Assessment for all Eligible women (Forms A and B) (26.6% of baseline)	2,468	2	4,936	.21	1,037
Process Assessment for women actively drinking (Forms A and B) (16% of 2,468 eligible women)	395	1	395	.21	83
End of Program Assessment (Forms A and C) (50% of eligible women)	1,234	1	1,234	.16	197
SBI Sub Total	9,273		15,838		3,635
Non-Pregnant Women (Project CHOICES)					
Baseline Assessment (Form A)	1,220	1	1,220	.25	305
End of program Assessment (Forms A and C) (50% of 629 eligible women)	314	1	314	.25	79
Follow-up Assessment (Form A) (50% of 629 eligible women)	314	2	628	.25	157
Project CHOICES Sub Total	1,220		2,162		541
Totals	10,493		18,000		4,176

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 or email her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received by September 23, 2013.

Summer King,

Statistician.

[FR Doc. 2013–17878 Filed 7–24–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Agency Information Collection Activities: BioWatch Filter Holder Log, Filter Holder Log DHS Form 9500

AGENCY: Office of Health Affairs, DHS.

ACTION: 60-Day Notice and request for comments; Extension without change of a currently approved collection.

SUMMARY: The Department of Homeland Security, Office of Health Affairs/OCMO Early Detection Division, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until September 23, 2013. This process is conducted in accordance with 5 CFR 1320.1

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded to Office of Health Affairs/OCMO Early Detection Division, DHS Attn.: Daniel Yereb, *djy1@dhs.gov* 703–647–8052.

SUPPLEMENTARY INFORMATION: Following collection, the filter samples are transported to a local Laboratory Response Network (LRN) laboratory for analysis. Should laboratory analysis determine the presence of one or more of the organisms of concern, additional analysis, collection, and response activities are conducted to determine the risk to public health, and to take appropriate public health, emergency response, and law enforcement actions.

The BioWatch Program provides funding to participating jurisdictions for the cost of collection and laboratory analysis activities, including the preparation and maintenance of required documentation. The filter holder log form is part of the documentation required by federal law enforcement for the BioWatch Program.

The filter holder log is required to create a unique record of the filter installed plus give a written chain-of-custody record tied to each collected filter sample. In the event of a positive laboratory result and subsequent determination of the presence of an organism of concern, a variety of law enforcement organizations may become engaged in the process of determining if any criminal activity has taken place. The Federal Bureau of Investigation (FBI) instructed the BioWatch Program to maintain a written record for each collected filter sample to support law enforcement activities, including criminal prosecution in the case of a deliberate release of a biological warfare agent. In addition, filter holder logs (chain-of-custody records) should be consistent nationwide for all BioWatch jurisdictions.

Written records are required to meet FBI evidentiary standards for establishing the chain of custody for any filter samples used for criminal prosecution (chain of custody is the tracking and documentation of the physical control of evidence at all stages in the collection and analysis process). The memorandum from the FBI to DHS directing the creation of written records is included in Attachment 1.

Collection of written records establishing chain of custody for samples containing biological agents and toxins for the purpose of evidence in a criminal proceeding is consistent with the ''Best Evidence Rule'', Section 1002, of the federal Rules of Evidence (Attachment 2).

The FBI requirement levied on the BioWatch Program is consistent with Section 7 of the FBI Quality Assurance Guidelines for Laboratories Performing Microbial Forensic Work, produced by the members of the Scientific Working Group on Microbial Genetics and Forensics (SWGMGF) Attachment 3. Such record keeping supports mandatory reporting requirements directed by The APHIS Interim Final Rule 7 CFR Part 331, repeated at 9 CFR

Part 121 Agricultural Bioterrorism Protection Act of 2002; Possession, Use, and Transfer of Biological Agents and Toxins; Interim Final Rule; FR citation: 67 FR 76908 and the CDC Interim Final Rule 42 CFR Part 73 Possession, Use, and Transfer of Select Agents and Toxins; Interim Final Rule; FR citation: 67 FR 76886, *inter alia.*

Information is collected in writing by a representative of a local BioWatch jurisdiction (either an employee, or a contractor) assigned responsibility for filter installation, removal, and transportation using a standardized log developed by the BioWatch Systems Program Office (SPO) and supplied by the jurisdiction.

A filter holder log is initiated for each new filter sample on installation in the aerosol collector device, and is completed (normally) 24 hours later when the filter sample is removed from the device for transportation to the analysis laboratory. The completed logs are archived by the local BioWatch jurisdiction for a period of one-year to support law enforcement activity. To date, no records have been provided to Federal government organizations to support operational events; however, local jurisdiction record keeping is audited as part of the BioWatch Evaluation Program (BWEP) to monitor for system-wide problems and to ensure that written records are being maintained in accordance with BioWatch Program requirements.

A personal digital assistant (PDA) is used to collect many of the data elements captured by the filter holder logs. However due to mechanical failure, possibility of spooking there is a need for redundancy in the form of paper copies.

A personal digital assistant (PDA) based data collection system—the BioWatch Sample Management System (SMS)—is used to collect electronic information related to sample management to support program operations and logistics. The SMS is a software system designed to track sample holders and other media from the time they are created, until they are delivered to the laboratory. The software monitors when the sample holder was assembled, deployed to the field, placed in the collector, removed from the collector, and delivered to the laboratory, along with who was responsible for each operation. The SMS software produces reports used by other software in the BioWatch system, such as the Centers for Disease Control Laboratory Results Messenger software. As directed by the FBI, a written record tied to each sample establishing chain of custody is to be created to support law enforcement activity; the FBI has informed the BioWatch Program of the determination that the electronic SMS cannot meet the FBI's evidence recording requirements.

There has been an increase in the annual burden associated with this collection. This increase is due to more locations using the holder filter log on a daily basis. Previously there were 522 locations and now there are 605 locations. This has increased the number responses annually by 30,817 and the hours by 515. There is no change in the burden time per response. There is no change in the information being collection. However, there are proposed changes to DHS 9500, Filter Holder Log. These changes include:

- Repositioning of Filter Installation and Filter Removal Tables. Currently the tables are viewed (top to bottom) Filter Installation then Filter Removal. These tables have been repositioned to align with the actual sequence of events at the work site * * * there is removal of the old filter first followed by installation of the new filter.
- Site Name field changed to Number. This has been changed to comply with the BioWatch Standard Operation Procedure (SOP).
- Within the Filter Installation table under Physical Security Check, On Arrival data elements have been removed. These elements no longer need to be collected because it is already covered in the Filter Removal portion of the procedure.
- Within the Filter Removal and Filter Installation remove the word Collector and replace with PSU. This has been changed to reflect the type of collector, and its unique number.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Office of Health Affairs/OCMO Early Detection Division, DHS.
Title: BioWatch Filter Holder Log.
OMB Number: 1601–0006.
Frequency: Daily.
Affected Public: State, Local, and Tribal Governments.
Number of Respondents: 605.
Estimated Time per Respondent: 1 minute.
Total Burden Hours: 3688 hours.

Dated: July 18, 2013.

Margaret H. Graves,

Acting Chief Information Officer.

[FR Doc. 2013–17909 Filed 7–24–13; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0625]

Commercial Fishing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Commercial Fishing Safety Advisory Committee (CFSAC) will meet in Washington, DC to discuss various issues relating to safety in the commercial fishing industry. This meeting will be open to the public.

DATES: The Committee will meet on August 14 and 15, 2013, from 8:00 a.m. to 5 p.m., and on August 16, 2013, from 8:00 a.m. to 12:30 p.m. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before August 2, 2013.

ADDRESSES: The Committee will meet at the Coast Guard Headquarters Building (Room 4613), 2100 2nd Street SW., Washington, DC 20593. Attendees will be required to provide a picture identification card and pass through a magnetometer in order to gain admittance to the U.S. Coast Guard Headquarters Building. Visitors should allow for at least 30 minutes to be processed through security and awaiting an escort, as may be required, to the meeting room.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. You may submit written comments no later than August 2, 2013, and they must be identified by docket number [USCG–2013–0625] using one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *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. We encourage use of electronic submissions because security screening may delay delivery of mail.
- *Fax:* (202) 493–225.
- *Hand Delivery:* Same as mail address above, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. The telephone number is 202–366–9329.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and docket number [USCG–2013–0625]. All submissions received will be posted without alteration at *www.regulations.gov,* including any personal information provided. 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).

Docket: Any background information or presentations available prior to the meeting will be published in the docket. For access to the docket to read background documents or submissions received by the CFSAC, go to *http://www.regulations.gov.,* insert ''USCG–2013–0625'' in the ''Keyword'' box, and then click ''Search''.

Public comments will be sought throughout the meeting by the Designated Federal Officer (DFO) as specific issues are discussed by the committee. Additionally, public presentation/comment periods will be offered throughout the meetings on August 14–15 2013, and specifically from 4 p.m. to 5 p.m. if needed, and on August 16 if needed from 11:00 a.m. to 12:00 p.m. Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period will end following the last call for comments. Contact the individual listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Kemerer, Alternate Designated Federal Officer (ADFO) of CFSAC, Commandant (CG–CVC–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Mail Stop 7581, Washington, DC 20593–7581; telephone 202–372–1249, fax 202–372–1917, email: *jack.a.kemerer@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The CFSAC is authorized by 46 U.S.C. 4508 and the Committee's purpose is to provide advice and recommendations to the U.S. Coast Guard and the Department of Homeland Security on matters relating to the safety of commercial fishing industry vessels.

Agenda

The CFSAC will meet to review, discuss and formulate recommendations on topics contained in the agenda:

Day 1 of the meeting will include administrative matters, reports, presentations, and subcommittee sessions as follows:

(1) Swearing-in of new members, election of chair and vice-chair, and completion of required forms by members.

(2) Status of Commercial Fishing Vessel Safety Rulemaking projects resulting from requirements set forth in the Coast Guard Authorization Act of 2010 and the Coast Guard and Maritime Transportation Act of 2012.

(3) Commercial Fishing Vessel Safety District Coordinators reports on activities and initiatives, such as the mandatory dockside safety examination bridging program.

(4) Industry Representatives updates on safety and survival equipment, and class rules for fishing vessels.

(5) Presentation on fatality rates by regions and fisheries, and update on safety and risk reduction related projects by the National Institute for Occupational Safety and Health.

(6) Presentation on safety standards by the National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

(7) Subcommittee sessions on (a) training program requirements for individuals in charge of a vessel, and (b) standards for alternative safety compliance program(s) development.

(8) Public comment period.

Day 2 of the meeting will primarily be dedicated to continuing subcommittee sessions on training requirements and alternative safety programs, but will also include:

(1) Reports and recommendations from the subcommittees to the full committee for consideration.

(2) Other safety recommendations and safety program strategies from the committee.

(3) Public comment period.

Day 3 of the meeting will include:

(1) Reports and recommendations from the subcommittees to the full committee for approval.

(2) Other safety recommendations and safety program strategies from the committee.

(3) Future plans and long range goals for the committee.

(4) Public comment period.

Jonathan C. Burton,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2013–17913 Filed 7–24–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0642]

Public Workshop Related to the International Maritime Organization's Development of a Mandatory Code for Ships Operating in Polar Waters

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting; request for comments.

SUMMARY: The United States Coast Guard will hold a public workshop in Washington, DC on topics related to the development of a mandatory code for ships operating in polar waters by the International Maritime Organization (IMO Polar Code). Various safety topics will be discussed including design, equipment, and operational requirements. This workshop is intended to be an interactive exchange of information between policymakers, industry experts, and interested members of the public.

DATES: The public workshop will be held for two days beginning Thursday, August 22, 2013 at 9 a.m., Eastern Time and ending Friday, August 23, 2013 at 4 p.m., Eastern Time. The daily meeting schedule will be from 9 a.m. until 4 p.m. This workshop is open to the public. See **ADDRESSES** for more information about submitting comments to the docket.

ADDRESSES: The public workshop will be held at the United States Coast Guard Headquarters Transpoint Building,

Room 2501, 2100 Second Street Southwest, Washington, DC 20593, approximately 1 mile from the Waterfront-SEU Metro Station. Due to building security requirements, each visitor must present two forms of government-issued photo identification in order to gain entrance to the building.

You may submit written comments identified by docket number USCG–2013–0642 before or after the meeting using any one of the following methods:

(1) *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. Our online docket is available on the Internet at *http://www.regulations.gov* under docket number USCG–2013–0642.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the workshop, please call or email Lieutenant Andrew Gibbons, U.S. Coast Guard; telephone 202–372–1485, email *Andrew.T.Gibbons@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

If you are interested in formally presenting information on a topic on the agenda please contact Lieutenant Andrew Gibbons at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Comments submitted to the docket and informal public comments during the workshop are also encouraged. All comments and presentations 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 notice (USCG–2013–0642) 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–2013–0642'' in the ''Search'' box. Click ''Search,'' find this notice in the list of Results, and then click on the corresponding ''Comment Now'' box. 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.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov* and insert ''USCG–2013–0642'' in the ''Search'' box. Click ''Search'' and use the filters on the left side of the page to highlight ''Public Submissions'' or other document types. 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).

Public Workshop

The Coast Guard will hold a public workshop regarding various safety topics including design, equipment, and operational requirements related to the development of the IMO Polar Code. For more information regarding the dates and times of the public workshop please see the **DATES** section above.

This workshop is intended to be an interactive exchange of information between policymakers, industry experts, and interested members of the public. The public workshop scope will include current regulations, additional risks and hazards unique to the Arctic and Antarctic regions, draft provisions in the IMO Polar Code, industry best practices, and any additional safeguards to be considered. The primary topics that will be considered at the public meeting include:

- General Overview of the IMO Polar Code;
- Ship Categories/Polar Class Rules;
- Operational Requirements including a Polar Water Operations Manual, Voyage Planning, and Contingency planning;
- Life-saving Equipment;
- Low Temperature Impacts on Design/Equipment.

Procedural

Please note that the workshop has a limited number of seats and may close early if all business is finished.

Members of the public may attend this workshop up to the seating capacity of the room. To facilitate the security process related to building access, or to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Lieutenant Andrew Gibbons, at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice, or in writing at Commandant (CG–ENG–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–7126, not later than Friday, August 16, 2013. We may not be able to accommodate requests made after August 16, 2013. Please note that due to building security requirements, each visitor must present two valid, government-issued photo identifications in order to gain entrance to the Coast Guard Headquarters building. The Coast Guard Headquarters building is accessible by taxi and privately owned conveyance (public transportation is not generally available). However, public parking in the vicinity of the building is extremely limited.

Members of the public are encouraged to participate and join in discussions, subject to the discretion of the moderator. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to our online public docket. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Lieutenant Andrew Gibbons at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Dated: July 19, 2013.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2013–17914 Filed 7–24–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities; Customs-Trade Partnership Against Terrorism (C–TPAT)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Customs-Trade Partnership Against Terrorism (C–TPAT). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (78 FR 30934) on May 23, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before August 26, 2013 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Customs-Trade Partnership Against Terrorism (C–TPAT).

OMB Number: 1651–0077.

Form Number: None.

Abstract: The Customs-Trade Partnership Against Terrorism (C–TPAT) Program is designed to safeguard the world's trade industry from terrorists and smugglers by prescreening its participants. The C–TPAT Program applies to United States importers, customs brokers, consolidators, port and terminal operators, carriers and foreign manufacturers. Respondents apply to participate in C–TPAT using an on-line application at *https://ctpat.cbp.dhs.gov/CompanyProfile.aspx.* The information collected includes the applicant's contact information and business information including the number of employees, the number of years in business, and a list of company officers. This information collection was authorized by the SAFE Port Act (Pub. L. 109–347).

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours as a result of updated estimates for the number of annual respondents. There is no change to the C–TPAT application or to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses.

Estimated Number of Respondents: 2,541.

Estimated Time per Respondent: 5 hours.

Estimated Total Annual Hours: 12,705.

Dated: July 22, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–17880 Filed 7–24–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N168; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

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, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before August 26, 2013. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by August 26, 2013.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES.** If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: St. Louis Zoo, St. Louis, MO; PRT–06587B

The applicant requests a permit to export hair samples from seven live specimens of Somali wild ass (*Equus africanus somalicus*) and Grevy's zebra (*Equus grevyi*) for the purpose of scientific research.

Applicant: University of Tennessee, College of Veterinary Medicine, Knoxville, TN; PRT–06190B

The applicant requests a permit to import biological samples from captive-bred cheetahs (*Acinonyx jubatus*) that live or lived in zoos in Canada from the Toronto Zoo, Scarborough, Canada, for the purpose of scientific research on the occurrence of feline coronavirus in cheetahs in Canadian zoos. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: San Diego Zoological Society, San Diego, CA; PRT–00002B

The applicant requests a permit to export four captive-born Bonobos (*Pan paniscus*) to Kumamoto Sanctuary, Kumamoto, Japan for scientific research purposes.

Applicant: Zoological Society of San Diego, San Diego CA; PRT–09942B

The applicant requests a permit for the import of 3.3 captive-bred Parma wallabies (*Macropus parma*) from the Healesville Sanctuary, Victoria Australia for the purpose of enhancement of the survival of the species.

Applicant: Zoological Society of San Diego, San Diego CA; PRT–09914B

The applicant requests a permit for the import of 2.4 captive bred yellow footed rock wallabies (*Petrogale xanthopus xanthopus*) from the Zoos South Australia, Adelaide, South Australia for the purpose of enhancement of the survival of the species.

Applicant: Brian Welker, Fulshear, TX; PRT–09943B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for scimitar-horned oryx (*Oryx dammah*) to enhance the species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: JCH Ranch LP, Sonora, TX; PRT–09945B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for scimitar-horned oryx (*Oryx dammah*) and addax (*Addax nasomaculatus*) to enhance the species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: JCH Ranch LP, Sonora, TX; PRT–09938B

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*) and addax (*Addax nasomaculatus*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities over a 5-year period.

Applicant: Hill Country Trophy Hunting, Mountain Home, TX; PRT–08669B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for scimitar-horned oryx (*Oryx dammah*) to enhance the species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Alvin Novosad, Chappell Hill, TX; PRT–748080

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for Cabot's tragopan (*Tragopan caboti*) to enhance their propagation or survival. This

notification covers activities over a 5-year period.

Applicant: Mary Ann Harris, Vancleave, MS; PRT–148278

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for golden parakeet (*Guarouba guarouba*) to enhance their propagation or survival. This notification covers activities over a 5-year period.

Applicant: Zoological Consortium of Maryland, Inc., Thurmont, MD; PRT–10226B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Species

Galapagos tortoise (*Chelonoidis nigra*)
Radiated tortoise (*Astrochelys radiata*)
Yellow-spotted river turtle (*Podocnemis unifilis*)
Spotted pond turtle (*Geoclemys hamiltonii*)
Nile crocodile (*Crocodylus niloticus*)
Saltwater crocodile (*Crocodylus porosus*)
Caiman (*Caiman crocodilus*)
Indian python (*Python molurus molurus*) cannot enter interstate commerce
Aruba Island rattlesnake (*Crotalus durissus unicolor*)
Jackass penguin (*Spheniscus demersus*)
Andean condor (*Vultur gryphus*)
Blyth's tragopan (*Tragopan blythii*)
Cabot's tragopan (*Tragopan caboti*)
Moluccan cockatoo (*Cacatua moluccensis*)
Ring-Tailed lemur (*Lemur catta*)
Black and white ruffed lemur (*Varecia variegata*)
Red ruffed lemur (*Varecia rubra*)
Black lemur (*Eulemur macaco*)
Brown lemur (*Eulemur fulvus*)
Cotton-top tamarin (*Saguinus oedipus*)
Diana monkey (*Cercopithecus diana*)
Japanese macaque (*Macaca fuscata*)
Lion-tailed macaque (*Macaca silenus*)
Mandrill (*Mandrillus sphinx*)
Lar gibbon (*Hylobates lar*)
Siamang (*Symphalangus syndactylus*)
Snow leopard (*Uncia uncia*)
Leopard (*Panthera pardus*)
Grevy's zebra (*Equus grevyi*)
South American tapir (*Tapirus terrestris*)
Scimitar-horned oryx (*Oryx dammah*)
Addax (*Addax nasomaculatus*)
Dama gazelle (*Nanger dama*)
Komodo monitor (*Varanus komodoensis*)

Applicant: Los Angeles Zoo, Los Angeles, CA; PRT–10602B

The applicant requests a permit to export one captive-born male brush-tailed bettong (*Bettongia penicillata*) to the Toronto Zoo, Ontario, Canada, for the purpose of enhancement of the survival of the species.

Applicant: Zoological Society of Cincinnati, Cincinnati, OH; PRT–681252

The applicant requests amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) to include Bali starling (*Leucopsar rothschildi*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ox Ranch, Uvalde, TX; PRT–10867B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ox Ranch, Uvalde, TX; PRT–10866B

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and red lechwe (*Kobus leche*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities over a 5-year period.

Applicant: Clyde Reams, Pass Christian, MS; PRT–10983B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for golden parakeet (*Guarouba guarouba*) to enhance their propagation or survival. This notification covers activities over a 5-year period.

Applicant: Lauren Ogburn, St. Johns, FL; PRT–10997B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for red siskin (*Carduelis cucullata*) to enhance their propagation or survival. This notification covers activities over a 5-year period.

Applicant: Daniel Conner, Kerrville, TX; PRT–10990B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for African dwarf crocodile (*Osteolaemus tetraspis*), Siamese crocodile (*Crocodylus siamensis*), Nile crocodile (*Crocodylus niloticus*), Cuban crocodile (*Crocodylus rhombifer*), saltwater crocodile (*Crocodylus porosus*), yacare caiman (*Caiman yacare*), caiman (*Caiman crocodilus*), brown caiman (*Caiman crocodilus fuscus*), broad-snouted caiman (*Caiman latirostris*), and Chinese alligator (*Alligator sinensis*), to enhance their propagation or survival. This notification covers activities over a 5-year period.

Applicant: Richard Sines, Johns Island, SC; PRT–154639

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*) to enhance their propagation or survival. This notification covers activities over a 5-year period.

Applicant: Tampa's Lowry Park Zoo, Tampa, FL; PRT–702166

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families

Bovidae
Cebidae
Cercopithecidae
Cheirogaleidae
Equidae
Felidae (does not include jaguar, margay or ocelot)
Hominidae
Hylobatidae
Lemuridae
Rhinocerotidae
Tapiridae
Gruidae
Sturnidae (does not include *Aplonis pelzelni*)

Species

Komodo monitor (*Varanus komodoensis*)
Spotted pond turtle (*Geoclemys hamiltonii*)

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled

from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Jerome Hennessey, Dalton, MN; PRT–08528B

Applicant: Gregory Elliott, Oakdale, LA; PRT–02585B

Applicant: Daniel Curtin, Dalton, GA; PRT–09906B

B. Endangered Marine Mammals and Marine Mammals

Applicant: U.S. Geological Survey—Biological Resources Division, Santa Cruz Field Station, Santa Cruz, CA; PRT–672624

The applicant requests renewal and amendment of the permit to take southern sea otter (*Enhydra lutris nereis*) from the wild for the purpose of scientific research on the ecology of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–17866 Filed 7–24–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ910000.L12100000.XP0000LXSS150A00006100.241A]

State of Arizona Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Arizona Resource Advisory Council (RAC) will meet in Phoenix, Arizona, as indicated below.

DATES: The RAC Working Groups will meet on August 27 from 8:30 a.m. to 2 p.m. and the Business meeting will take place August 28 from 8 a.m. to 2 p.m.

ADDRESSES: The meetings will be held at the BLM National Training Center located at 9828 North 31st Avenue, Phoenix, Arizona 85051.

FOR FURTHER INFORMATION CONTACT: Dorothea Boothe, Arizona RAC Coordinator at the Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, 602–417–9504. 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 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Arizona. Planned agenda items include: a welcome and introduction of Council members; BLM State Director's update on BLM programs and issues; updates on the Rapid Ecoregional Assessment/Landscape Approach; and Arizona Renewable Energy programs; Use and Formation of Subcommittees on the RAC; Recreational Target Shooting on BLM Lands and RAC Recommendations to the BLM State Director on Recreational Target Shooting; reports by the RAC Working Groups; RAC questions on BLM District Managers' Reports; and other items of interest to the RAC. Members of the public are welcome to attend the Working Group and Business meetings. A public comment period is scheduled on the day of the Business meeting from 11 a.m. to 11:30 a.m. for any interested members of the public who wish to address the Council on BLM programs and business. Depending on the number of persons wishing to speak and time available, the time for individual comments may be limited. Written comments may also be submitted during the meeting for the RAC's consideration. Final meeting agendas will be available two weeks prior to the meetings and posted on the BLM Web site at: *http://www.blm.gov/az/st/en/res/rac.html.* Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the RAC Coordinator listed above no later than two weeks before the start of the meeting.

Under the Federal Lands Recreation Enhancement Act, the RAC has been designated as the Recreation RAC (RRAC) and has the authority to review all BLM and Forest Service recreation fee proposals in Arizona. The RRAC will not review any recreation fee proposals at this meeting.

Raymond Suazo,

State Director.

[FR Doc. 2013–17881 Filed 7–24–13; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000–13XL1116AF: HAG13–0251]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 40 S., R. 12 E., accepted June 28, 2013
T. 19 S., R. 4 W., accepted June 28, 2013
T. 38 S., R. 11 ½ E., accepted June 28, 2013

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 333 SW. 1st Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204. 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: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the

Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

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.

Mary J.M. Hartel,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2013–17882 Filed 7–24–13; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[IDI–29793]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting for the Grays Lake National Wildlife Refuge Headquarters; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposes to extend the duration of Public Land Order (PLO) No. 7130 for an additional 20-year term. PLO No. 7130 transferred jurisdiction of 37.5 acres of public land withdrawn from settlement, sale, location, or entry under the public land laws, including the United States mining laws, from the U.S. Forest Service (USFS) to the U.S. Fish and Wildlife Service (FWS) to protect the Grays Lake National Wildlife Refuge Headquarters in Bonneville County. PLO No. 7130 will expire on March 30, 2015, unless extended. This notice gives an opportunity for the public to comment and request a public meeting on the proposed withdrawal extension.

DATES: Comments and requests for a public meeting must be received by October 23, 2013.

ADDRESSES: Comments and meeting requests should be sent to the U.S. Fish and Wildlife Service, Realty Branch, 911 NE 11th Avenue, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Laura Underhill, Bureau of Land Management (BLM) Idaho State Office 208–373–3866 or Wayne Hill, Realty Branch Chief, U.S. Fish and Wildlife Service, 503–231–2236. 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 either of the above individuals. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with either of the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The withdrawal created by PLO No. 7130 (60 FR 16585 (1995)), which transferred jurisdiction of 37.5 acres of public land withdrawn for use by the USFS to the FWS to protect the Grays Lake National Wildlife Refuge Headquarters, will expire on March 30, 2015, unless extended. PLO No. 7130 is incorporated herein by reference. The FWS filed a petition/application to extend PLO No. 7130 for an additional 20-year term. The PLO withdrew 37.5 acres of public land from settlement, sale, location, and entry under the public land laws, including the United States mining laws. The land has been and remains open to mineral leasing.

The purpose of the proposed withdrawal extension is to continue to protect the Grays Lake National Wildlife Refuge Headquarters capital investments and will cover the same area currently withdrawn.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately constrain nondiscretionary uses which could result in permanent loss of significant values and capital investments.

A water right with a priority date of 1969 is in place for stock water, domestic, fire protection, and administrative purposes. The current owner is listed as FWS.

You may examine records relating to the application by contacting the FWS Realty Branch at the above address or by telephone at 503–231–2236 or Laura Underhill, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709 or by telephone at 208–373–3866.

For a period until October 23, 2013, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the FWS, at the address noted above. Comments, including names and street addresses of respondents, will be available for public review at the U.S. Fish and Wildlife Services, Realty Branch, 911 NE 11th Avenue, Portland, Oregon 97232 during regular business hours, 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

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 may 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.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal extension must submit a written request to the FWS Realty Branch Chief at the address indicated above by October 23, 2013. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a newspaper having a general circulation in the vicinity of the land at least 30 days before the scheduled date of the meeting.

This application will be processed in accordance with the regulations set forth in 43 CFR 2310.

David H. Murphy,

Chief, Branch of Lands, Minerals and Water Rights.

[FR Doc. 2013–17843 Filed 7–24–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW03000.L51050000.EA0000. LVRCF1302280 241A; MO# 4500051988; 13–08807; TAS: 14X5017]

Notice of Temporary Closure and Temporary Restrictions of Specific Uses on Public Lands for the Burning Man Event, Pershing County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that under the authority of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Winnemucca District, Black Rock Field Office, will implement and enforce a temporary closure and temporary restrictions to protect public safety and resources on

public lands within and adjacent to the Burning Man event on the Black Rock Desert playa.

DATES: The temporary closure and temporary restrictions will be in effect from August 12, 2013 to September 16, 2013.

FOR FURTHER INFORMATION CONTACT: Gene Seidlitz, BLM District Manager, Winnemucca District, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445–2921, telephone: 775–623–1500, email: *gseidlitz@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: The temporary closure and temporary restrictions affect public lands within and adjacent to the Burning Man event permitted on the Black Rock Desert playa within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in Pershing County, Nevada. The legal description of the affected public lands in the temporary public closure area is:

Mount Diablo Meridian

T. 33 N., R. 24 E., unsurveyed,
Sec. 1, that portion lying northwesterly of East Playa Road;
Sec. 2, that portion lying northwesterly of East Playa Road;
Sec. 3;
Sec. 4, that portion lying southeasterly of Washoe County Road 34;
Sec. 5;
Sec. 8, NE¼;
Sec. 9, N½;
Sec. 10, N½;
Sec. 11, that portion of the N½ lying northwesterly of East Playa Road.
T. 33½ N., R. 24 E., unsurveyed,
Secs. 25, 26, and 27;
Sec. 28, that portion lying easterly of Washoe County Road 34;
Sec. 33, that portion lying easterly of Washoe County Road 34;
Secs. 34, 35, and 36.
T. 34 N., R. 24 E., partly unsurveyed,
Sec. 23, S½;
Sec. 24, S½;
Secs. 25 and 26;
Sec. 27, E½NE¼, E1/2SW¼, SE¼;
Sec. 33, NE¼NE¼, S½NE¼, that portion of the SW¼ lying northeasterly of Washoe County Road 34, SE¼;
Secs. 34, 35, and 36.
T. 33 N., R. 25 E.,
Sec. 4, that portion lying northwesterly of East Playa Road.
T. 34 N., R. 25 E., unsurveyed,
Sec. 16, S½;
Sec. 21;
Sec. 22, W½NW¼, SW¼;
Sec. 27, W½;
Sec. 28;
Sec. 33, that portion lying northwesterly of East Playa Road;
Sec. 34, that portion of the W½ lying northwesterly of East Playa Road.

The temporary closure area comprises 14,153 acres, more or less, in Pershing County, Nevada.

The public closure is necessary for the period of time from August 12, 2013, through September 16, 2013, because of the Burning Man event activities in the area, starting with fencing the site perimeter, final setup, the actual event (August 25 through September 2), initial phases of cleanup, and concluding with final site cleanup.

The public closure area comprises about 13 percent of the Black Rock Desert playa. Public access to other areas of the playa will remain open and the other 87 percent of the playa outside the temporary closure area will remain open to dispersed casual use.

The event area is contained within the temporary closure area. The event area is defined as the portion of the temporary closure area (1) entirely contained within the event perimeter fence, including 50 feet from the outside of the event perimeter fence; and (2) within 25 feet from the outside edge of the event access road; and includes the entirety of the aircraft parking area outside the event perimeter fence.

The temporary closure and temporary restrictions are necessary to provide a safe environment for the participants of the Burning Man event and to members of the public visiting the Black Rock Desert, and to protect public land resources by addressing law enforcement and public safety concerns associated with the event. The event is expected to attract approximately 68,000 participants to a remote rural area, more than 90 miles from urban infrastructure and support, including law enforcement, public safety, transportation, and communication services. During the event, Black Rock City, the temporary city associated with the event, becomes the tenth-largest population area in Nevada. This event is authorized on public land under Special Recreation Permit #NVW03500–13–01.

While a majority of Burning Man event participants do not violate event rules or BLM rules and regulations, a few participants at previous events have caused law enforcement and public safety incidents similar to those observed in urban areas of similar-size populations. Incidents that have required BLM law enforcement action in prior years include: Aircraft crashes; motor vehicle accidents with injuries both within and outside the event perimeter; fights; sexual assault; assault on law enforcement officers; reckless or threatening behavior; crimes against property; crowd control issues; possession and unlawful use of alcoholic beverages; endangerment of themselves or others; possession, use, and distribution of controlled substances; and increased use of public lands outside the event perimeter.

The Burning Man event takes place within Pershing County, a rural county with a small population and a small Sheriff's Department. Pershing County has limited ability to provide law enforcement officers to work at the event. The temporary closure and temporary restrictions are necessary to enable BLM law enforcement personnel to provide for public safety and to protect the environment on public lands, as well as to support State and local law enforcement agencies with enforcement of existing laws.

Use of the Black Rock playa by up to 68,000 participants creates potential impacts to public resources associated with disposal of wastes and litter. Implementation of the temporary restrictions will increase interaction with and education of users by BLM law enforcement and educational staff which will indirectly increase appreciation and protection of the public resources.

A temporary closure and temporary restrictions order, under the authority of 43 CFR 8364.1, is appropriate for a single event. A temporary closure and temporary restrictions order is specifically tailored to the timeframe that is necessary to provide a safe environment for the public and for participants at the Burning Man event, and to protect public land resources while avoiding imposing restrictions that may not be necessary in the area during the remainder of the year.

The BLM will post information signs and maps about the temporary closure and temporary restrictions at main entry points around the playa, at the BLM Winnemucca District Office, at the Nevada State Office, and at the Black Rock Visitor Center and on the BLM's Web site: *www.blm.gov/nv/st/en/fo/wfo.html.*

Under the authority of Section 303(a) of FLPMA, 43 CFR 8360.0–7, and 43 CFR 8364.1, the BLM will enforce a temporary public closure and the following temporary restrictions within and adjacent to the Burning Man event on the Black Rock Desert playa:

I. Temporary Restrictions

A. Aircraft Landing

The public closure area is closed to aircraft landing, taking off, and taxiing. Aircraft is defined in Title 18, U.S.C., section 31 (a)(1) and includes lighter-than-air craft and ultra-light craft. The following exceptions apply:

1. All aircraft operations, including ultra-light and helicopter landings and takeoffs will occur at the designated 88NV Black Rock City Airport landing strips and areas defined by airport management. All takeoffs and landings will occur only during the hours of operation of the airport as described in the Burning Man Operating Plan. All pilots that use the Black Rock City Airport must agree to and abide by the published airport rules and regulations.

2. Only helicopters providing emergency medical services may land at the designated Emergency Medical Services helicopter pad or at other locations when required for medical incidents. The BLM authorizing officer or his delegated representative may approve other helicopter landings and takeoffs when deemed necessary for the benefit of the law enforcement operation.

3. Landings or takeoffs of lighter-than-air craft previously approved by the BLM authorized officer.

B. Alcohol

1. Possession of an open container of an alcoholic beverage by the driver or operator of any motorized vehicle, whether or not the vehicle is in motion, is prohibited.

2. Possession of alcohol by minors

(a) The following are prohibited:

(1) Consumption or possession of any alcoholic beverage by a person under 21 years of age on public lands.

(2) Selling, offering to sell, or otherwise furnishing or supplying any alcoholic beverage to a person under 21 years of age on public lands.

3. Operation of a motor vehicle while under the influence

(a) Title 43 CFR 8341.1(f)3 prohibits the operation of an off-road motor vehicle on public land while under the influence of alcohol, narcotics, or dangerous drugs.

(b) In addition to the prohibition found in subsection (f)3, it is prohibited for any person to operate or be in actual physical control of a motor vehicle while:

(1) The operator is under the combined influence of alcohol, a drug, or drugs to a degree that renders the operator incapable of safe operation of that vehicle; or

(2) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more of alcohol per 210 liters of breath.

(3) It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of a prohibited substance in his or her urine or blood that is equal to or greater than the following nanograms per milliliter (ng/ml):

(a) Amphetamine: urine, 500 ng/ml; blood, 100 ng/ml

(b) Cocaine: urine, 150 ng/ml; blood, 50 ng/ml

(c) Cocaine metabolite: urine, 150 ng/ml; blood, 50 ng/ml

(d) Heroin: urine, 2,000 ng/ml; blood, 50 ng/ml

(e) Heroin metabolite:

(1) Morphine: urine, 2,000 ng/ml; blood, 50 ng/ml

(2) 6-monoacetyl morphine: urine, 10 ng/ml; blood, 10 ng/ml

(f) Lysergic acid diethylamide: urine, 25 ng/ml; blood, 10 ng/ml

(g) Marijuana: urine, 10 ng/ml; blood, 2 ng/ml

(h) Marijuana metabolite: urine, 15 ng/ml; blood, 5 ng/ml

(i) Methamphetamine: urine, 500 ng/ml; blood, 100 ng/ml

(j) Phencyclidine: urine, 25 ng/ml; blood, 10 ng/ml

(c) Tests:

(1) At the request or direction of any law enforcement officer authorized by the Department of the Interior to enforce this closure and restriction order, who has probable cause to believe that an operator of a motor vehicle has violated a provision of paragraph (a) or (b) of this section, the operator shall submit to one or more tests of the blood, breath, saliva, or urine for the purpose of determining blood alcohol and drug content.

(2) Refusal by an operator to submit to a test is prohibited and proof of refusal may be admissible in any related judicial proceeding.

(3) Any test or tests for the presence of alcohol and drugs shall be determined by and administered at the direction of an authorized law enforcement officer.

(4) Any test shall be conducted by using accepted scientific methods and equipment of proven accuracy and reliability operated by personnel certified in its use.

(d) Presumptive levels

(1) The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of paragraph (a) of this section. If the alcohol concentration in the operator's blood or breath at the time of testing is less than alcohol concentrations specified in paragraph (b)(2) of this section, this fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

(2) The provisions of paragraph (d)(1) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, a drug or multiple drugs, or any combination thereof.

4. Definitions:

(a) Open container: Any bottle, can, or other container which contains an alcoholic beverage, if that container does not have a closed top or lid for which the seal has not been broken. If the container has been opened one or more times, and the lid or top has been replaced, that container is an open container.

(b) Possession of an open container includes any open container that is physically possessed by the driver or operator, or is adjacent to and reachable by that driver or operator. This includes but is not limited to containers in a cup holder or rack adjacent to the driver or operator, containers on a vehicle floor next to the driver or operator, and containers on a seat or console area next to a driver or operator.

C. Drug Paraphernalia

1. The possession of drug paraphernalia is prohibited.

2. Definition: Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of any state or Federal law, or regulation issued pursuant to law.

D. Disorderly Conduct

1. Disorderly conduct is prohibited.

2. Definition: Disorderly conduct means that an individual, with the intent of recklessly causing public alarm, nuisance, jeopardy, or violence; or recklessly creating a risk thereof:

(a) Engages in fighting or violent behavior.

(b) Uses language, an utterance or gesture, or engages in a display or act that is physically threatening or menacing, or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.

(c) Obstructs, resists, or attempts to elude a law enforcement officer, or fails to follow their orders or directions.

E. Eviction of Persons

1. The public closure area is closed to any person who:

(a) Has been evicted from the event by the permit holder, Black Rock City LLC, (BRC LLC) whether or not the eviction was requested by the BLM.

(b) Has been ordered by a BLM law enforcement officer to leave the area of the permitted event.

2. Any person evicted from the event forfeits all privileges to be present within the perimeter fence or anywhere else within the public closure area even if they possess a ticket to attend the event.

F. Fires

The ignition of fires on the surface of the Black Rock playa without a burn blanket or burn pan is prohibited.

G. Fireworks

The use, sale or possession of personal fireworks is prohibited except for uses of fireworks approved by BRC LLC and used as part of a Burning Man sanctioned art burn event.

H. Motor Vehicles

1. Must comply with the following requirements:

(a) The operator of a motor vehicle must possess a valid driver's license.

(b) Motor vehicles and trailers must possess evidence of valid registration, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration.

(c) Motor vehicles and trailers must possess evidence of valid insurance, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration.

(d) Motor vehicles and trailers must not block a street used for vehicular travel or a pedestrian pathway.

(e) Motor vehicles must not exceed the posted speed limit.

(f) No person shall occupy a trailer while the motor vehicle is in transit upon a roadway, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration.

(g) Motor vehicles, other than a motorcycle or golf cart, must be equipped with at least two working headlamps, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration—so long as they are adequately lit according to Black Rock City, LLC Department of Mutant Vehicle requirements.

(h) Motor vehicles, other than a motorcycle or golf cart, and trailers must be equipped with at least two functioning tail lamps, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration—so long as they are adequately lit according to Black Rock City, LLC Department of Mutant Vehicle requirements.

(i) Motor vehicles, other than a motorcycle or golf cart, and trailers must be equipped with at least two functioning brake lights.

(j) Motor vehicles and trailers must display an unobstructed rear license plate, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration.

(k) Motor vehicles and trailers must be equipped with a mounted lamp to illuminate the rear license plate, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration.

2. The public closure area is closed to motor vehicle use, except as provided below.

Motor vehicles may be operated within the public closure area under the circumstances listed below:

(a) Participant arrival and departure on designated routes;

(b) BLM, medical, law enforcement, and firefighting vehicles are authorized at all times;

(c) Vehicles operated by BRC LLC staff or contractors and service providers on behalf of BRC LLC. During the event, from 6:00 p.m. Sunday, August 25, 2013, through 6:00 p.m. Monday, September 2, 2013, these vehicles must display evidence of event registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

(d) Mutant vehicles, art cars, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration. During the event, from 6:00 p.m. Sunday, August 25, 2013, through 6:00 p.m. Monday, September 2, 2013, such vehicles must display evidence of registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

(e) Motorized skateboards, electric assist bicycles, or Go-Peds with or without handlebars;

(f) Participant drop off of approved burnables and wood to the Burn Garden/Wood Reclamation Stations (located on open playa at 3:00, 6:00, 9:00 Promenades and the Man base) from 9:00 a.m. Sunday, September 1, 2013 through the end of day Tuesday, September 3, 2013, post event; and

(g) Passage through, without stopping, the public closure area on the west or east playa roads.

3. Definitions:

(a) A motor vehicle is any device designed for and capable of travel over land and which is self-propelled by a motor, but does not include any vehicle operated on rails or any motorized wheelchair.

(b) Motorized wheelchair means a self-propelled wheeled device, designed solely for and used by a mobility-impaired person for locomotion.

(c) A trailer is any instrument designed to be hauled by a motor vehicle.

I. Public Camping

The public closure area is closed to public camping with the following exception: Burning Man event ticket holders who are camped in designated event areas provided by BRC LLC, and ticket holders who are camped in the authorized pilot camp. BRC LLC authorized staff, contractors, and BLM authorized event management related camps are exempt from this closure.

J. Public Use

The public closure area is closed to use by members of the public unless that person: is traveling through, without stopping, the public closure area on the west or east playa roads; possesses a valid ticket to attend the event; is an employee or authorized volunteer with the BLM, a law enforcement officer, emergency medical service provider, fire protection provider, or another public agency employee working at the event and the individuals are assigned to the event; is a person working at or attending the

event on behalf of BRC LLC; or is authorized by BRC LLC to be onsite prior to the commencement of the event for the primary purpose of constructing, creating, designing or installing art, displays, buildings, facilities or other items and structures in connection with the event; or is a commercial operation to provide services to the event organizers and/or participants authorized by BRC LLC through a contract or agreement and authorized by BLM through a Special Recreation Permit.

K. Waste Water Discharge

The dumping or discharge to the ground of gray water is prohibited. Gray water is water that has been used for cooking, washing, dishwashing, or bathing and contains soap, detergent, food scraps, or food residue.

L. Weapons

1. The possession of any weapon is prohibited except weapons within motor vehicles passing, without stopping, through the public closure area, on the west or east playa roads.

2. The discharge of any weapon is prohibited.

3. The prohibitions above shall not apply to county, state, tribal, and Federal law enforcement personnel, or any person authorized by Federal law to possess a weapon. ''Art projects'' that include weapons and are sanctioned by BRC LLC will be permitted after obtaining authorization from the BLM authorized officer.

4. Definitions:

(a) Weapon means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, cross bow, blowgun, spear gun, hand-thrown spear, sling shot, irritant gas device, electric stunning or immobilization device, explosive device, any implement designed to expel a projectile, switch-blade knife, any blade which is greater than 10 inches in length from the tip of the blade to the edge of the hilt or finger guard nearest the blade (e.g., swords, dirks, daggers, machetes), or any other weapon the possession of which is prohibited by state law. Exception: This rule does not apply in a kitchen or cooking environment or where an event worker is wearing or utilizing a construction knife for their duties at the event.

(b) Firearm means any pistol, revolver, rifle, shotgun, or other device which is designed to, or may be readily converted to expel a projectile by the ignition of a propellant.

(c) Discharge means the expelling of a projectile from a weapon.

Any person who violates the above rules and restrictions may be tried before a United States Magistrate and fined no more than $1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for at 18 U.S.C. 3571.

Authority: 43 CFR 8364.1

Victor W. Lozano,

Acting District Manager, Winnemucca District.

[FR Doc. 2013–17844 Filed 7–24–13; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Notice of Availability of a Draft Environmental Assessment for Allowing Avian Hunting in Designated Areas Along the Rio Grande Canalization Project, Sierra and Doña Ana Counties, New Mexico

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Availability of the Draft Environmental Assessment (EA).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR parts 1500 through 1508); and the United States Section, Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, (46 FR 44083); the United States Section hereby gives notice that the Draft Environmental Assessment for Allowing Avian Hunting in Designated Areas along the Rio Grande Canalization Project, Sierra and Doña Ana Counties, New Mexico is available. An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within 30-days from the date of this Notice.

FOR FURTHER INFORMATION CONTACT: Gilbert Anaya, Division Chief, Environmental Management Division; United States Section, International Boundary and Water Commission; 4171 N. Mesa, C–100; El Paso, Texas 79902. Telephone: (915) 832–4702, email: *Gilbert.Anaya@ibwc.gov.*

Background: This Draft Environmental Assessment analyzes the potential impacts of allowing certain types of game bird hunting within designated areas on USIBWC property in Doña Ana County, New Mexico, along the Rio Grande Canalization Project from Percha Dam near Arrey, New Mexico downstream to American Dam in El Paso, Texas.

Availability: The electronic version of the Draft EA is available from the USIBWC Web page: *www.ibwc.gov/Organization/Environmental/EIS_EA_Public_Comment.html.*

Dated: July 18, 2013.

Luisa Alvarez,

General Counsel.

[FR Doc. 2013–17820 Filed 7–24–13; 8:45 am]

BILLING CODE 7010–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1224–1225 (Preliminary)]

Ferrosilicon From Russia and Venezuela; Institution of Antidumping Duty Investigations and Scheduling of Preliminary Phase Investigations.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigation Nos. 731–TA–1224–1225 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Russia and Venezuela of Ferrosilicon, provided for in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by September 3, 2013. The Commission's views are due at Commerce within five business days thereafter, or by September 10, 2013.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through

E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* July 19, 2013.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted in response to a petition filed on July 19, 2013, by Globe Specialty Metals, Inc. (''GSM''), New York, NY; CC Metals and Alloys, LLC (''CCMA''), Calvert City, KY; the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (''USW''); and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (''UAW'').

Participation in the investigations and public service list. Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on August 9, 2013, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be filed with *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (do not file on EDIS) on or before August 7, 2013. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before August 14, 2013, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: July 22, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–17871 Filed 7–24–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Docket No. 2968]

Certain Sleep-Disordered Breathing Treatment Systems and Components Thereof: Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Sleep-Disordered Breathing Treatment Systems and Components Thereof,* DN 2968; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of ResMed Corp., ResMed Inc., and ResMed Ltd. on July 19, 2013. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sleep-disordered breathing treatment systems and components thereof. The complaint names as respondents BMC Medical Co., Ltd. of China; 3B Medical, Inc. of Florida; and 3B Products, LLC of Florida. The complainant requests that the Commission issue a limited exclusion order and cease and desist order.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 2968'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

Issued: July 22, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–17895 Filed 7–24–13; 8:45 am]

BILLING CODE 7020–02–P

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–869]

Certain Robotic Toys and Components Thereof; Commission Determination Not To Review an Initial Determination Granting a Joint Motion for Termination of the Investigation; Entry of Consent Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 11) granting a joint motion to terminate the investigation in its entirety and has entered consent orders.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 11, 2013, based on a complaint filed by Innovation First International, Inc.; Innovation First, Inc.; and Innovation First Labs, Inc., all of Greenville, Texas. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) by reason of misappropriation of trade secrets. The respondents named in the notice of investigation are CVS Pharmacy Inc. of Woonsocket, Rhode Island; Zuru Inc. of Road Town, Tortola, British Virgin Islands; Zuru Ltd. of Kowloon, Hong Kong; and Zuru Toys Inc. of Cambridge, New Zealand.

On June 3, 2013, the complainants and respondents filed a joint motion to

terminate the investigation in its entirety based on the consent order stipulations, proposed consent orders, and settlement agreements attached to the motion. In the motion, the parties stated that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.

On June 14, 2013, the Commission investigative attorney (''IA'') filed a response in conditional support of the joint motion, provided that the parties modify the proposed consent orders to specify the activities authorized by the settlement agreements between the parties. On June 21, 2013, complainants and respondents jointly moved for leave to file a reply to the IA's response to the joint motion. On June 24, 2013, the IA indicated to the ALJ that given the changes made to the consent orders submitted with the parties' reply, the IA does not oppose the joint motion to terminate.

On July 1, 2013, the ALJ issued the subject ID granting the joint motion. The ALJ found that there is good cause for terminating the investigation, and that he is not aware of any extraordinary circumstances that would preclude granting the motion. The ALJ further found that entry of the proposed consent orders and termination of the investigation is in the public interest. On July 9, 2013, the ALJ issued a corrected version of the subject ID to include the revised versions of the consent orders. No petitions for review were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: July 19, 2013.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2013–17847 Filed 7–24–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On July 18, 2013 the Department of Justice filed a Complaint and simultaneously lodged a proposed Consent Decree (''Decree'') with the United States District Court for the District of Colorado in the lawsuit entitled *United States* v. *Williams Four Corners LLC,* Civil Action No. 13-cv-1923. In its Complaint the United States seeks civil penalties and injunctive relief against Williams Four Corners, LLC (''Williams'') for violations of the permit issued pursuant to Part C of Subchapter I of the CAA, 42 U.S.C. 7475 (Prevention of Significant Deterioration or ''PSD'') and the regulations promulgated thereunder at 40 CFR 52.21, and the federal operating permit program set forth at Title V of the CAA, 42 U.S.C. 7661–7661f (''Title V'') and the regulations promulgated thereunder at 40 CFR part 71, at a facility known as PLA–9 Central Deliver Point, also known as PLA–9 CDP (the ''PLA–9 Facility''). The PLA–9 Facility is located approximately 18 miles southwest of Durango, Colorado, and within the exterior boundaries of the Southern Ute Indian Reservation. The PLA–9 Facility is now shut down. The Decree requires Williams pay a $63,000 civil penalty to settle the alleged violations. Should Williams restart any operations at PLA–9 within the next two years, the Decree requires Williams comply with the requirements of the PSD Permit applicable to any emitting units that may be restarted or replaced.

The publication of this notice opens a period for public comment. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Williams Four Corners, LLC,* D.J. Ref. No. DOJ # 90–5–2–1–10120. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, PO Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.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 $7.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–17874 Filed 7–24–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 12–52]

George R. Smith, M.D.; Decision and Order

On February 5, 2013, Administrative Law Judge (ALJ) Gail A. Randall issued the attached Recommended Decision. Therein, the ALJ recommended that I deny Respondent's pending application for a DEA Certificate of Registration as a practitioner. Respondent did not file exceptions to the Recommended Decision.

Having reviewed the entire record, I have decided to adopt the ALJ's Recommended Decision in its entirety. Accordingly, Respondent's application will be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 28 CFR 0.100(b), I order that the application of George R. Smith, M.D., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This Order is effective immediately.

Dated: July 16, 2013.

Michele M. Leonhart,

Administrator.

Krista Tongring, Esq., for the Government
Louis Leichter, Esq. and *Andre D'Souza, Esq.,* for the Respondent

Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge

I. Introduction

Gail A. Randall, Administrative Law Judge. This proceeding is an adjudication pursuant to the Administrative Procedure Act, 5 U.S.C. 551 *et seq.,* to determine whether the Drug Enforcement Administration (''DEA'' or ''Government'') should deny a physician's application for a DEA Certificate of Registration pursuant to 21 U.S.C. 823(f) (2006). Without such registration, the physician, George R. Smith, M.D. (''Respondent'' or ''Dr. Smith''), would be unable to lawfully

prescribe, dispense or otherwise handle controlled substances in the course of his medical practice.

II. Procedural Background

The Deputy Assistant Administrator, Drug Enforcement Administration, issued an Order to Show Cause (''Order'') dated June 5, 2012, proposing to deny the application of George R. Smith, M.D. for a DEA Certificate of Registration pursuant to 21 U.S.C. 823(f) (2006), because Respondent's registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. § 823(f). [Administrative Law Judge Exhibit (''ALJ Exh.'') 1 at 1]. The Order stated that on November 18, 2011, Respondent applied for a DEA registration as a practitioner in Schedules II–V at 4721 Bob White Road, Gilmer, Texas 75645. [*Id.*]. Additionally, the Order stated that Respondent had twice previously surrendered his DEA registrations for cause. [*Id.*]. Respondent first voluntarily surrendered his DEA registration, DEA number BS2388381, on March 6, 2002. [*Id.*]. Respondent then voluntarily surrendered his second DEA registration, DEA number FS0339817, on April 27, 2011. [*Id.*].

The Order alleged that between November 1998 and June 2001, Respondent issued prescriptions for large quantities of hydrocodone, a Schedule III controlled substance, to his family members for his own personal use for other than legitimate medical purposes. [*Id.*]. In relation to this allegation, the Order asserted that during this time period, Respondent obtained and filled prescriptions for hydrocodone from at least ten different doctors for his own personal use for other than legitimate medical purposes. [*Id.*]. Additionally, the Order asserted that between June 2001 and August 2001, Respondent issued prescriptions for hydrocodone and alprazolam to third-party non-patients in order for Respondent to obtain these controlled substances for his own personal use for other than legitimate medical purposes. [*Id.*]. As a result of issuing these unlawful prescriptions for controlled substances, Respondent pled guilty to one count of obtaining controlled substances by fraud, in violation of 21 U.S.C. § 843(a)(3), a felony, on November 26, 2001, before the United States District Court for the Eastern District of Texas. [*Id.* at 2].

Lastly, the Order alleged that Respondent had prescribed Schedule III and IV controlled substances between January 2010 and January 2011 in violation of his medical license, his Texas controlled substance registration, and his DEA registration. [*Id.*]. In regards to this allegation, the Order stated that Respondent only had authority to prescribe Schedule V controlled substances because in March 2007 Respondent had applied for a DEA registration as a practitioner and was subsequently issued a DEA registration, DEA number FS0339817, for Schedule V controlled substances only. [*Id.*]. The Deputy Assistant Administrator then gave Respondent the opportunity to show cause as to why his registration application should not be denied on the basis of those allegations. [*Id.*].

On July 3, 2012, Respondent, through counsel, timely filed a request for a hearing in the above-captioned matter. [ALJ Exh. 2].

On December 3, 2012, a Protective Order was issued to protect patient names and patient files used in this proceeding. [ALJ Exh. 8].

After authorized delays, a hearing was held in Austin, Texas on December 12, 2012 through December 13, 2012, with the Government and Respondent each represented by counsel. [ALJ Exh. 3–4, 6–7]. At the hearing, counsel for the Government called one witness to testify and introduced documentary evidence. [Transcript (''Tr.'') Volume I–II]. Counsel for the Respondent called two witnesses to testify, including the Respondent, and introduced documentary evidence. [*Id.*].

After the hearing, the Government and the Respondent submitted Proposed Findings of Fact, Conclusions of Law and Argument (''Govt. Brief'' and ''Resp. Brief'').

III. Issue

The issue in this proceeding is whether or not the record as a whole establishes by a preponderance of the evidence that the Drug Enforcement Administration should deny the application of George R. Smith, M.D., for a DEA Certificate of Registration as a practitioner, pursuant to 21 U.S.C. § 823(f) (2006), because to grant Dr. Smith's application would be inconsistent with the public interest as that term is defined in 21 U.S.C. 823(f). [ALJ Exh. 3; Tr. 5].

IV. Findings of Fact

A. Stipulated Facts

The parties have stipulated to the following facts:

1. Respondent holds Texas Medical license H–8411 (expiration February 28, 2013),[1] and Texas Department of Public Safety Controlled Substances Registration (Texas DPS Registration) Certificate 60184908 (expiration November 30, 2012)[2] which allows Respondent to issue prescriptions for controlled substances listed in Schedules II–V.

2. On March 4, 1995, the Texas State Board of Medical Examiners (Medical Board) suspended Respondent's medical license because Respondent had developed a drug addiction due to the self-administration of hydrocodone and codeine. The suspension was stayed and Respondent was placed on probation for five (5) years.

3. Respondent's probation was terminated on October 24, 1998.

4. On October 24, 2001, Respondent's medical license was temporarily suspended because his ''continuation in the practice of medicine would constitute a continuing threat to public welfare.''

5. On November 26, 2001, before the United States District Court for the Eastern District of Texas, Respondent pleaded guilty to one count of obtaining a controlled substance by fraud, a felony. Respondent was sentenced to a three (3) year term of probation on March 21, 2002.

6. On March 6, 2002, Respondent voluntarily surrendered his DEA Certificate of Registration Number BS2388381 for cause.

7. By order dated May 17, 2002, the Medical Board revoked Respondent's medical license. The revocation was stayed, Respondent was placed on probation for ten (10) years, and Respondent was required to surrender his DEA (surrendered prior to the order) and Texas controlled substance registrations.

8. By Medical Board Order dated June 2, 2006, Respondent was permitted to apply to the DEA and the Texas DPS for Certificates of Registration for Schedule V controlled substances only. Respondent was further limited to prescribing Schedule V controlled substances to hospital admission patients only.

[1] On January 31, 2013, the parties filed Joint Stipulations of Fact No. 2 with the Court. Therein, the parties stipulated ''[a]fter the conclusion of the Hearing on the Merits Respondent submitted a renewal request to the Texas Medical Board (''TMB'') for his Texas Medical License H–8411 which was set to expire at the end of February 2013. The TMB renewed Respondent's medical license for the ordinary term of two years. Respondent's Texas Medical License is now current through February 28, 2015.''

[2] On January 31, 2013, the parties filed Joint Stipulations of Fact No. 2 with the Court. Therein, the parties stipulated ''[p]rior to the Hearing on the Merits the Respondent submitted a request to the Texas Department of Public Safety (''DPS'') to renew his Texas Controlled Substances Registration. The DPS renewed Respondent's DPS Controlled Substances Registration for the ordinary term of one year. Respondent's DPS Registration is now current through November 30, 2013.''

9. In March 2007, Respondent applied for a DEA Registration for Schedule V controlled substances, which was approved, and DEA Registration Number FS0339817 was issued.

10. DEA Registration Number FS0339817 was renewed in February 2010.

11. Respondent applied to the Medical Board four times for modification of his Board order to allow him to apply for unrestricted DEA and DPS registrations. He made such applications on August 18, 2007; November 2, 2008; March 14, 2010; and November 17, 2010.

12. On April 27, 2011, Respondent voluntarily surrendered DEA Registration Number FS0339817 for cause after it was discovered that he was issuing prescriptions for Schedule III and IV controlled substances to non-hospital admission patients.

13. By Medical Board Order dated August 26, 2011, Respondent was permitted to apply to the DEA and the Texas DPS for unrestricted controlled substance registrations so that he may prescribe Schedule II, III, IV, and V controlled substances.

14. Respondent remains under a Medical Board order that requires random drug screens, drug screens upon request of any of Respondent's healthcare providers, treatment for addiction by a physician, and attendance at AA meetings. Any positive drug screen or refusal to submit to testing is grounds for immediate suspension of Respondent's medical license.

15. The August 26, 2010 [3] Medical Order remains in effect until May 17, 2017, and is not eligible for early termination.

16. In September 2011, the Texas DPS issued Respondent a Texas Controlled Substances Registration in all schedules.

17. On November 18, 2011, Respondent applied for an unrestricted DEA Certificate of Registration.[4]

[ALJ Exh. 5; Tr. 6].

B. Respondent's History

1. Respondent's Education and Training

Respondent received a Bachelor of Science degree from East Texas State University, majoring in Molecular Biology. [Tr. 77–78]. Upon graduating from college, Respondent attended the University of Texas Southwestern Medical School, where he later graduated in the top 10% of his class. [Tr. 78–79]. After completing medical school, Respondent completed a four year post-graduate residency program in internal medicine at Presbyterian Hospital of Dallas. [Tr. 79–81]. In his final year of residency training, Respondent was elected the Chief Resident and during his year as Chief Resident he served as a critical care medicine trainee. [Tr. 80–82]. After completing his residency training, the Respondent was offered a critical care fellowship at Parkland Hospital in Dallas, Texas but, the Respondent declined this opportunity. [Tr. 82–83].

In 1994, the Respondent entered private practice after the completion of his residency training. [Tr. 82, 84]. The Respondent began practicing with an internist in Mount Pleasant, Texas. [*Id.*]. In addition to seeing patients at his own office, the Respondent served as the critical care unit director at Titus Regional Medical Center. [Tr. 84]. Respondent practiced with the internist and served as the critical care unit director at Titus Regional Medical Center for a period of 6–7 years. [*Id.*].

In 2000, the Respondent became Board Certified in Internal Medicine.[5] [Tr. 89]. Following his time in private practice and working as the critical care unit director at Titus Regional Medical Center, Respondent conducted pilot exams for American Airlines for a period of 6–8 months. [Tr. 113]. After this position was eliminated, the Respondent began working for a county hospital in Mineral Wells, Texas as the hospitalist. [*Id.*]. Next, the Respondent conducted routine pre-employment physicals for a company before becoming employed at Hugman-Kent Clinic, in Gladewater, Texas, in 2006.[6] [Tr. 113–115]. Respondent continues to practice at Hugman-Kent Clinic. [Tr. 114–115]. Approximately 85% of the Respondent's patients are Medicare patients. [Tr. 115]. The median age of the Respondent's patients is about 60–65 years old. [Tr. 119]. A significant number of the Respondent's patients have co-morbidities that require complex medical management. [Tr. 116–117].

2. Respondent's Addiction to Controlled Substances

In 1993, the Respondent developed an addiction to hydrocodone after he had injured his back from working on his car. [Tr. 85, 185; Govt. Exh. 3 at 2]. Respondent began self-administering hydrocodone after previously obtaining hydrocodone from physicians and from samples. [Tr. 86–87; Govt. Exh. 3 at 2]. As a result of his addiction, while Respondent was working at Presbyterian Hospital of Dallas in April of 1993, his clinical privileges were suspended after Respondent exhibited behavioral changes and failed to respond to telephone calls and his beeper. [Tr. 87; Govt. Exh. 3 at 2]. The Respondent subsequently entered treatment for his addiction to hydrocodone and was placed under the care of Dr. Michael Healy, an addiction specialist. [Tr. 87–88].

After practicing medicine for only two and one half years, the Respondent entered into an Agreed Order with the Texas State Board of Medical Examiners (''the Board'' or ''the Texas Medical Board'') on March 4, 1995, in which his Texas medical license was suspended as a result of his addiction to hydrocodone; however, the Texas Medical Board stayed the suspension of Respondent's medical license and placed him on probation for a term of five years. [Govt. Exh. 3; Tr. 85]. As a result of the 1995 Agreed Order, restrictions were placed on the Respondent's ability to practice medicine. [Govt. Exh. 3; Tr. 88–89]. The Respondent was required to abstain from the consumption of alcohol and drugs unless prescribed by another physician for a legitimate purpose, submit to drug testing at the request of the Board, and continue under the care of Dr. Michael Healy. [*Id.*].

The Respondent subsequently sought termination of the March 4, 1995 Agreed Order. [Tr. 90; Govt. Exh. 4]. However, on September 20, 1997, the Texas Medical Board denied Respondent's request to terminate the 1995 Agreed Order due to the nature of the violation and the fact that less than three of the five year probation term had been served. [*Id.*]. But, on October 24, 1998, the Texas Medical Board did terminate the March 4, 1995 Agreed Order. [Govt. Exh. 5; Tr. 90].

However, the Respondent started abusing controlled substances again in 1999, approximately one year after the Texas Medical Board had terminated the 1995 Agreed Order. [Tr. 185]. Around November of 1999, the Respondent suffered two compression fractures. [Tr. 92]. The Respondent then began taking hydrocodone for pain. [*Id.*]. Respondent

[3] It appears that both counsel are referring to the August 26, 2011 Medical Order. *See* Government Exhibit (''Govt. Exh.'') 11 and Respondent Exhibit (''Resp. Exh.'') 1.

[4] The November 18, 2011 application is the subject of this administrative hearing.

[5] Respondent is no longer Board Certified in Internal Medicine because his certification expired December 31, 2010. He is not permitted to sit for recertification because he is currently under an Agreed Order with the Texas Medical Board. [Tr. 111–112, 217; Govt. Exh. 11; Resp. Exh. 1].

[6] The reasoning for Respondent's constant movement from job to job will be discussed below. However, such job hopping was due in large part to his addiction problems and the restrictions placed on his medical license by the Texas Medical Board.

initially began obtaining hydrocodone from physicians and then later started writing prescriptions for it himself. [*Id.*]. In addition to abusing hydrocodone, Respondent prescribed hydrocodone to family members and Respondent would consume the hydrocodone that he prescribed to family members a majority of the time. [Tr. 93, 185; Govt. Exh. 6]. Respondent also approached nurses and employees of the Titus Regional Medical Center, where he was working in 2001, and asked them to fill controlled substance prescriptions for him. [Govt. Exh. 6 at 2]. As a result of his addiction problems, the Titus Regional Medical Center suspended Respondent's hospital privileges. [Tr. 93; Govt. Exh. 6 at 3].

On October 24, 2001, the Texas Medical Board entered a Temporary Suspension Order, which temporarily suspended the Respondent's Texas medical license as a result of his return to addiction. [Govt. Exh. 6]. Following the 2001 Temporary Suspension, the Board entered an Agreed Order on May 17, 2002. [Govt. Exh. 7; Resp. Exh. 4]. The Order revoked the Respondent's Texas medical license; however, the Board stayed the revocation and placed the Respondent on probation for a term of ten years. [Govt. Exh. 7 at 4; Resp. Exh. 4 at 4]. The 2002 Agreed Order required the Respondent to abstain from the consumption of alcohol and controlled substances unless prescribed by a physician for a legitimate purpose, to report any prescription of controlled substances to the Board, to give a copy of the Agreed Order to all treating physicians, to submit to drug testing at the request of the Board, to remain under the care of Dr. Michael Healy,[7] to attend Alcoholics Anonymous (''AA'') meetings, to surrender all controlled substances registrations,[8] and to limit his medical practice to a group or institutional setting approved by the Board. [Govt. Exh. 7; Resp. Exh. 4]. Should the Respondent test positive for drug use, then his medical license could be automatically revoked without the need for further hearings. [Tr. 103; Govt. Exh. 7]. The agreement also prohibited the Respondent from applying for a controlled substances registration absent Board approval. [Govt. Exh. 7]. Further, the Respondent was only allowed to file a request to modify this order once a year thereafter. [*Id.*].

Respondent subsequently sought treatment for his relapse in addiction. [Tr. 94]. Respondent went to Baylor, in Dallas, where he underwent a three-month treatment program for his addiction. [*Id.*]. Respondent has been required to submit to over 600 drug tests as a result of the 2002 Agreed Order and has never failed to appear for a drug test nor has the Respondent tested positive.[9] [Tr. 103–108]. As a result of the Respondent's treatment and willingness to stay sober, the Respondent reports a sobriety date of October 22, 2001.[10] [Tr. 96; Govt. Exh. 7; Resp. Exh. 4]. Respondent admits that his return to addiction and his prescribing to family members, self-administration, and solicitation of colleagues was an abuse of the authority of his Texas medical license, his Texas DPS registration, and his DEA registration. [Tr. 92]. The 2002 Agreed Order was subsequently modified on October 10, 2003 and June 2, 2006. [Govt. Exh. 8 and 10; Resp. Exh. 3 and 2].

The October 10, 2003 Modified Agreed Order permitted the Respondent to practice in a setting where there is at least one other physician located in the place that services are being rendered, rather than the previous requirement under the 2002 Order, which restricted Respondent's practice to a group or institutional setting. [Govt. Exh. 8 at 9; Govt. Exh. 3 at 9]. In addition, the 2003 Modified Agreed Order required the Respondent to take and pass the Special Purpose Examination (SPEX). [*Id.* at 10]. The Respondent again sought modification of the 2002 Agreed Order; however, his modification request was denied by the Board on December 10, 2004. [Govt. Exh. 9]. But, on June 2, 2006, the Board issued an Order Granting Modification to the 2002 Agreed Order, in which Respondent was authorized to reapply for a Texas DPS registration and a DEA registration in Schedule V controlled substances only. [Govt. Exh. 10 at 2; Resp. Exh. 2 at 2]. Additionally, the 2006 Order Granting Modification restricted the Respondent's prescribing authority to hospital admission patients only. [*Id.*].

After the entry of the Medical Board's orders, the Respondent was terminated from multiple third-party payer insurance plans. [Tr. 112]. With the loss of his DEA registration, the Respondent experienced even more third-party payer loss, leaving him with mostly cash-only patients or Medicare patients. [*Id.*]. Subsequently, the Respondent moved from job to job as work became available. [Tr. 113].

The Respondent continues to see a psychiatrist once a month. [Tr. 109]. He currently has no mental health diagnosis that would impair his abilities as a physician. [*Id.*].

C. Respondent Prescribing Controlled Substances Outside the Scope of His Registration

Pursuant to the 2002 Agreed Order and the subsequent 2003 and 2006 modifications to the Agreed Order, the Respondent re-applied for DPS and DEA registrations for only Schedule V controlled substances in March 2007. [Govt. Exh. 10; Resp. Exh. 2; ALJ Exh. 5]. He obtained these registrations. [*Id.*]. But, under the June 2, 2006 Order Granting Modification, the Respondent's prescribing authority was restricted to hospital patients only. [*Id.*].

In late 2009, Respondent began prescribing Schedules III and IV controlled substances to his patients at the Hugman-Kent Clinic. [Tr. 139]. Respondent continued prescribing outside the scope of his Texas DPS and DEA registrations up until he was visited by Diversion Investigator (''DI'') Thomas McLaughlin [11] on April 6, 2011. [Tr. 23, 139]. Yet, the Respondent credibly testified that he prescribed these controlled substances to adequately treat his patients. [Tr. 130, 135].

DI McLaughlin first began investigating the Respondent after he received information from Sandra Atkins, a DEA registration technician, that Respondent was writing Schedule III and IV prescriptions when he was only authorized to write Schedule V prescriptions. [Tr. 10–11]. DI McLaughlin requested information from the Texas Prescription Monitoring

[7] After the retirement of Dr. Michael Healy, the Respondent has been under the care of Dr. Jonathon Lockhart and continues to see Dr. Lockhart once a month per the 2002 Agreed Order. [Tr. 109].

[8] Respondent voluntarily surrendered his Texas DPS and DEA registrations prior to the date of the 2002 Agreed Order. [Tr. 110].

[9] The drug testing that Respondent must submit to as a result of his 2002 Agreed Order and subsequent modifications to this Agreed Order are intense. Respondent must call an automated mechanism every morning in order to determine if he must give a specimen on that particular day. If Respondent is required to give a specimen on a particular day, then he must report to give the specimen before the early afternoon. Respondent has never failed to call or failed to provide a specimen over the eleven year period that he has been required to submit to this drug testing. The Respondent pays the costs for the drug tests. [Tr. 103–108, 314–316].

[10] The Government does not challenge this sobriety date. [Tr. 313–314].

[11] DI McLaughlin is employed by the DEA at the Tyler Resident Office of the Dallas Field Division. [Tr. 8]. DI McLaughlin has been a Diversion Investigator for over 15 years. [Tr. 9]. Prior to being employed with DEA, DI McLaughlin served as a Correctional Officer for the Illinois Department of Corrections, served as an Investigator with the City of Chicago, and served a total of 21 years in the Air Force. [*Id.*]. As part of his training in being a Diversion Investigator, DI McLaughlin has attended the basic diversion investigator course in Quantico, Virginia, and has received continuing training throughout his tenure as a Diversion Investigator. [Tr. 9–10].

Program (''PMP'')[12] from the time period of January 2010 through January 2011, and discovered through the report that Respondent prescribed 1,532 prescriptions in Schedules III, IV, and V to 335 patients. [Tr. 14–18; Govt. Exh. 2]. These prescriptions were issued to non-hospital admission patients. [Tr. 22]. Of the 1,532 prescriptions issued during this time period, over 1,400 were for Schedule III and IV controlled substances. [Tr. 18–19; Govt. Exh. 2]. DI McLaughlin also requested copies of original prescriptions from the pharmacies that filled Respondent's issued prescriptions. [Tr. 20–22; Govt. Exh. 2, 12]. He noted that there were no discrepancies between the Prescription Monitoring Program Data and the prescription slips that he received. [*Id.*].

The Respondent contends that he has no record of 47 patients named in the Prescription Monitoring Program Data Report as being treated by him at the Hugman-Kent Clinic. [Tr. 173–178; Resp. Exh. 15]. However, only 41 of these contested names were listed on the Prescription Monitoring Program Data. [Resp. Exh. 15; Govt. Exh. 2; Tr. 59]. These 41 people were prescribed a total of 155 prescriptions. [Govt. Exh. 2; Tr. 59]. Therefore, rather than the Respondent prescribing 1,532 total prescriptions during the time of January 2010 through January 2011, he issued 1,377 prescriptions. [Govt. Exh. 2]. Although Respondent did not prescribe to 41 of those listed on the Prescription Monitoring Program Data Report, the Respondent did prescribe to the remaining 294 people and prescribed 1,071 prescriptions for Schedule III and IV controlled substances. [*Id.*].

Finding Respondent's testimony to be credible, it is probable that someone had in fact abused Respondent's DEA registration because neither the Respondent nor the Clinic have any records of these 41 patients being prescribed controlled substances.[13] [Tr. 173–178; Resp. Exh. 15]. However, Respondent acknowledges that his actions were still wrong and that he did prescribe outside the scope of his Texas DPS and DEA registrations. [Tr. 23, 59, 139, 174]. Regardless of the controversy concerning the 41 patients, he ceased prescribing Schedule III and IV controlled substances after a visit by DI McLaughlin in April of 2011. [Tr. 139].

Although, Respondent admitted his fault, he repeatedly gave justifications for his actions; these included: prescribing for the patient's best interest and patient care; and continuing prescriptions for patients of a retiring doctor out of the Hugman-Kent Clinic.[14] [Tr. 134–139, 168–172, 204, 206; Resp. Exh. 13]. The Respondent later admitted on cross-examination that he would have had fewer patients if he did not prescribe Schedule III and IV controlled substances, and the Clinic could therefore have lowered his salary. [Tr. 191]. Additionally, the Respondent admitted that there are hundreds of physicians located in Longview, Texas, which is about 20 miles away from the Respondent's place of business. [Tr. 202, 39–40]. Finally, there were other physicians in Gladewater, Texas, who had unrestricted DEA registrations at the time the Respondent was prescribing outside the scope of his registration. [Tr. 39–40]. Yet the Respondent credibly testified that other physicians working at the Hugman-Kent Clinic were not comfortable writing controlled substance prescriptions for the Respondent's patients because ''they didn't know the patients.'' [Tr. 138].

As a result of the Respondent's unauthorized prescribing of Schedule III and IV controlled substances, he voluntarily surrendered his DEA registration on April 27, 2011. [ALJ Exh. 5]. The Respondent also violated his modified 2002 Agreed Order.[15] [Govt. Exh. 11 at 4; Resp. Exh. 1 at 4]. Also, the Respondent had been reporting to his compliance officer that he was in full compliance with the 2002 Agreed Order, when in fact he admitted at the hearing that he had not been in compliance. [Resp. Exh. 5–6; Tr. 186–192].

On August 26, 2011, the Respondent again entered into an Agreed Order with the Texas Medical Board. [Govt. Exh. 11; Resp. Exh. 1; Tr. 162–165]. Pursuant to the 2011 Agreed Order, which was issued after the Respondent took part in an Informal Settlement and Show Cause Proceeding (''ISC'')[16] on July 28, 2011, the Respondent is to remain under the terms of the 2002 Agreed Order, as modified, without the right to seek an early termination. [Tr. 308; Govt. Exh. 11 at 5; Resp. Exh. 1 at 5]. The Board modified the 2002 Agreed Order to authorize the Respondent to reapply to the DEA and the Texas DPS to obtain registrations in Schedule II, III, IV, and V controlled substances. [*Id.*]. But, the decision to grant or deny the Respondent's application remains ''a matter for appropriate determination by the DEA and DPS.'' [Govt. Exh. 11 at 5–6; Resp. Exh. 1 at 5–6]. In addition, the Respondent was ordered to pay an administrative penalty of $10,000, which he has paid. [Tr. 164; Govt. Exh. 11 at 6; Resp. Exh. 1 at 6]. Thus, after the Respondent had been found to be in violation of both his Texas DPS and DEA registrations and his 2002 Agreed Order, the Respondent was permitted to reapply for unrestricted registrations, and he obtained an unrestricted Texas DPS registration in Schedules II through V in September 2011. [ALJ Exh. 5]. Now, in spite of his violations, the Respondent seeks a DEA registration for Schedules II through V. [ALJ Exh. 5; Govt. Exh. 1].

D. Respondent's Felony Convictions

1. 2001 Felony Conviction

As a result of Respondent's addiction to hydrocodone and his self-administration of hydrocodone, he pled guilty to one count of obtaining a controlled substance by fraud, a felony, on November 26, 2001, before the United States District Court for the Eastern District of Texas. [ALJ Exh. 5; Tr. 99]. Respondent was then sentenced to a three year term of probation on March 21, 2002. [ALJ Exh. 5].

[12] Under Texas law all pharmacies must submit prescription information on controlled substances to the PMP when the prescriptions are filled. The information includes the date, the drug, the practitioner's name and DPS registration numbers. [Tr. 12].

[13] There was some testimony that implicated an employee of the Hugman-Kent Clinic, who was functioning as a nurse, had illegally used Respondent's prescriptive authority to help others obtain controlled substances. [Tr. 174–178]. But, there is no concrete evidence that this unidentified nurse had in fact used Respondent's prescriptive authority to help 41 people obtain controlled substances under the guise of Respondent's Texas DPS and DEA registrations. [*Id.*]. However, this unidentified nurse was later fired from the Clinic after it had been discovered that she had taken samples from the Clinic. [Tr. 177].

Further, the Respondent asserted in his Prehearing Statement that some of the patients attributed to him may actually be patients of other Dr. George Smiths in Texas. However, this assertion was not pursued by the Respondent during the hearing. [*But see* Tr. 41–44; Govt. Exh. 14–17].

[14] Respondent offered justifications as to why he prescribed Schedules III and IV controlled substances to five patients under his care. The Respondent found there was a medical need for each of the patients to be prescribed controlled substances. Yet, Respondent did not have the authority to prescribe these controlled substances to these patients. However, there is no dispute concerning the medical necessity for these prescriptions. [Resp. Exh. 13; Tr. 140–161].

[15] The Respondent had been requesting modification of his 2002 Agreed Order through letters that he sent to the Texas Medical Board on four separate occasions. Yet each time that he requested modification, he was not in compliance with the 2002 Agreed Order. [Resp. Exh. 7–10; Tr. 188–192]. In fact, at the March 2011 modification hearing that the Respondent had with the Texas Medical Board, he represented that he was in compliance with the 2002 Agreed Order but, he was not. [Tr. 192].

[16] The record contains testimony concerning the ISC process. [Tr. 308–311]. Since there is no dispute concerning this due process procedure, I do not explain this Medical Board process here.

2. 2012 Felony Conviction

As a result of the Respondent's admitting that he prescribed Schedule III and IV controlled substances, when he was only authorized to prescribe Schedule V controlled substances, he pled guilty to violating 21 U.S.C. 842(a)(1) and (c)(2)(B) (2006) for illegal dispensing before the United States District Court for the Eastern District of Texas, Tyler Division on September 5, 2012. [Govt. Exh. 13; Tr. 36–38, 167–168]. Respondent has not yet been sentenced for this conviction; however, the sentencing recommendation is a probationary term and a fine. [Tr. 38, 168].

E. Respondent's Remedial Actions

Respondent has taken remedial actions to help ensure that the terms of his medical license agreement would not be violated. [Tr. 178–179]. Because Respondent claims that there may have been some instances where his DEA registration was abused by others, although he fully admits to prescribing outside the scope of his registration, he intends to take the following actions to ensure others do not abuse his medical license and/or a future DEA registration: use the Prescription Access Texas Program to monitor patients' prescriptions; implement a better screening process prior to hiring employees at the Clinic; use only hard copy prescriptions, rather than calling in prescriptions to pharmacies; and notify local pharmacies regarding his use of hard copy prescriptions. [Tr. 178–179]. The Respondent admitted that he could have implemented these remedial measures when he first gained employment at Hugman-Kent Clinic but, he did not. [Tr. 192–193].

Currently any patient who calls for an appointment is told that the Respondent is unable to prescribe controlled substances. [Tr. 180, 219]. The Respondent also credibly testified that he would expect his DEA registration would contain conditions, such as the keeping of a log book. [Tr. 205, 214–215]. The Respondent testified that he would not violate his DEA registration again. [Tr. 207–208]. The last time the Respondent prescribed controlled substances in Schedules III and IV to a patient was in the Spring of 2011. [Tr. 219].

The Respondent also provided testimony as to why having a DEA registration would be beneficial to his patients. [Tr. 166, 218]. He would be able to participate in more third-party payer plans, and he could take steps to obtain hospital privileges to better treat his patients. [*Id.*].

V. Statement of Law and Discussion

A. The Position of the Parties

1. Government's Position

The Government asserts that the Respondent's application for a DEA Certificate of Registration should be denied. [Govt. Brief at 18]. Specifically, the Government argues that granting the Respondent's application is inconsistent with the public interest, under 21 U.S.C. 823(f) (2006), because the Respondent has previously failed to be a responsible registrant, has violated the Controlled Substances Act, has two felony convictions, and has failed to take responsibility for his actions. [*Id.*].

The Government argues that the recommendation of the Texas Medical Board, which allows the Respondent to reapply for a DEA registration in Schedule II through V controlled substances, should be given ''nominal weight.'' [*Id.* at 12–13]. In support of its argument, the Government contends that the Respondent has ''been the subject of Texas Medical Board orders from 1995 through 1998 and again from 2001 through the present day based on Respondent's misconduct involving controlled substances.'' [*Id.* at 12].

In addition, the Government argues that the Respondent's experience in dispensing controlled substances, his conviction record, and his compliance with federal and state laws relating to controlled substances ''all strongly weigh in favor of the denial of Respondent's application'' for a DEA Certificate of Registration. [*Id.* at 13]. The Government argues that Respondent has had his Texas medical license revoked (although stayed) twice due to his addiction to hydrocodone and his prescribing hydrocodone to his family members. [*Id.* at 13–14]. Additionally, the Government argues that the Respondent has had two felony convictions related to controlled substances, one for issuing fraudulent prescriptions and another for prescribing controlled substances outside the scope of his prescriptive authority. He has twice surrendered his DEA registrations. [*Id.*]. The Government also argues that Respondent violated federal and local law on several occasions when he prescribed Schedule III and IV controlled substances to his non-hospital patients. [*Id.* at 14].

Lastly, the Government argues that the Respondent's application for a DEA registration is inconsistent with the public interest because Respondent has failed to be a compliant registrant in the past and will likely fail to be a compliant registrant in the future. [*Id.* at 15]. The Government also argues that the Respondent has failed to take full responsibility for his actions. [*Id.* at 16]. The Government additionally argues that the Respondent's excuses for his failure to be a compliant registrant, i.e. the need of the community and his patients, is not a viable argument and does not support the granting of Respondent's application for a DEA registration. [*Id.* at 17]. In conclusion, the Government asserts that ''Respondent failed in his responsibilities as a DEA registrant, not once but two times. Both failures involved Respondent's knowing and willful violations of the Controlled Substances Act and resulted in criminal convictions.'' [*Id.* at 18]. For these reasons, the Government concludes that the Respondent's application should be denied.

2. Respondent's Position

The Respondent asserts that his application for a DEA registration should be granted because granting his registration is consistent with the public interest.[17] [Resp. Brief at 13]. First, Dr. Smith argues that the Texas Medical Board has recommended that he be able to apply for an unrestricted DEA registration, in spite of his past disciplinary history with the Texas Medical Board. [*Id.* at 13–14]. Additionally, the Respondent notes that he has already obtained an unrestricted Texas DPS registration for controlled substances that weighs in favor of the DEA granting his registration. [*Id.* at 14].

The Respondent next argues that he has sufficient knowledge and experience in dispensing controlled substances. [*Id.*]. Respondent claims that he has ''a good working knowledge of complex medical management.'' [*Id.*].

Although the Respondent acknowledges that he has had two felony convictions and has not complied with state, federal, or local laws relating to controlled substances, he asserts that he has rehabilitated himself and thus, these factors do not warrant the denial of his DEA registration application. [*Id.* at 14–16]. Specifically, the Respondent asserts that he has been sober since October of 2001, and has submitted to over 600 drug tests, in which he has never tested positive. [*Id.* at 15]. Additionally, the Respondent argues that, although he prescribed outside the scope of his

[17] Although the Respondent contends that granting his application for a DEA registration is in the public interest, he recognizes that restrictions could be placed on his registration, such as maintaining a log book and agreeing to inspections without the need for an administrative warrant. [Resp. Brief at 13].

registration, he did so because it was in the best interest of his patients and he never ''non-therapeutically prescribed drugs since his 2002 arrest.'' [*Id.*]. Moreover, Respondent asserts that since his noncompliance was discovered in 2011, he has been in full compliance with his Texas Medical Board Orders, his Texas DPS registration and his DEA registration. [*Id.* at 15–16].

Lastly, the Respondent argues that a DEA registration in Schedules II through V will not threaten the public health and safety because he is committed to remaining sober and complying with all laws. [*Id.* at 16–18]. Dr. Smith asserts that he has taken responsibility for his past wrongdoing and if he were to receive a DEA registration, he would understand and comply with any stipulations that were included with his DEA registration. [*Id.* at 17–18]. Moreover, Dr. Smith argues that granting his DEA registration application is in fact in the public's best interest because he will be better equipped to handle his patients and the community will be effected in a positive way. [*Id.* at 17]. Therefore, Dr. Smith requests that his DEA registration application be granted with any provisions the Court deems fit. [*Id.* at 18].

B. Statement of Law and Analysis

Pursuant to 21 U.S.C. 823(f) (2006), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest.[18] In determining the public interest, the following factors are considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety. 21 U.S.C. § 823(f) (2006).

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether an application should be denied. *See Robert A. Leslie, M.D.,* 68 Fed. Reg. 15,227, 15,230 (DEA 2003). Moreover, the Deputy Administrator is ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA,* 412 F.3d 165, 173–74 (DC Cir. 2005).

The Government bears the ultimate burden of proving that the requirements for registration are not satisfied. 21 CFR 1301.44(d) (2012). However, where the Government has made out a *prima facie* case that Respondent's application would be ''inconsistent with the public interest,'' the burden of production shifts to the applicant to ''present[] sufficient mitigating evidence'' to show why he can be trusted with a new registration. *See Medicine Shoppe—Jonesborough,* 73 FR 364, 387 (DEA 2008). To this point, the Agency has repeatedly held that the ''registrant must accept responsibility for [his] actions and demonstrate that [he] will not engage in future misconduct. *Id.; see also Samuel S. Jackson, D.D.S.,* 72 FR 23,848, 23,853 (DEA 2007). In short, after the Government makes its *prima facie* case, the Respondent must produce sufficient evidence that he can be trusted with the authority that a registration provides by demonstrating that he accepts responsibility for his misconduct and that the misconduct will not reoccur. Yet, the DEA has consistently held the view that ''past performance is the best predictor of future performance.'' *Alra Laboratories,* 59 FR 50,620 (DEA 1994), *aff'd Alra Laboratories, Inc.* v. *DEA,* 54 F.3d 450, 451 (7th Cir 1995).

1. Factor One: Recommendation of Appropriate State Licensing Board

Although the recommendation of the applicable state licensing board is probative to this factor, the Agency possesses ''a separate oversight responsibility with respect to the handling of controlled substances'' and therefore, must make an ''independent determination as to whether the granting of [a registration] would be in the public interest.'' *Mortimer B. Levin, D.O.,* 55 Fed. Reg. 8,209, 8,210 (DEA 1990); *see also Jayam Krishna-Iyer, M.D.,* 74 Fed. Reg. 459, 461 (DEA 2009). It is well-established Agency precedent that a ''state license is a necessary, but not a sufficient condition for registration.'' *Leslie,* 68 Fed. Reg. at 15,230; *John H. Kennedy, M.D.,* 71 FR 35,705, 35,708 (DEA 2006). Even the reinstatement of a state medical license does not affect the DEA's independent responsibility to determine whether a registration is in the public interest. *Levin,* 55 FR at 8,210. The ultimate responsibility to determine whether a registration is consistent with the public interest has been delegated exclusively to the DEA, not to entities within a state government. *Edmund Chein, M.D.,* 72 Fed. Reg. 6,580, 6,590 (DEA 2007), *aff'd Chein* v. *DEA,* 533 F.3d 828 (DC Cir. 2008). So while not dispositive, state board recommendations are relevant to the issue of granting a DEA registration. *See Gregory D. Owens, D.D.S.,* 74 FR 36,751, 36,755 (DEA 2009); *Martha Hernandez, M.D.,* 62 FR 61,145, 61,147 (DEA 1997).

The Respondent has been the subject of numerous orders from the Texas Medical Board throughout his medical career. [Govt. Exh. 3–11; Resp. Exh. 1–4]. The disciplinary proceedings regarding the Respondent with the Texas Medical Board span over a decade. [*Id.*]. The Respondent initially had his Texas medical license suspended in 1995 after it was discovered that the Respondent had become addicted to hydrocodone and codeine. [Govt. Exh. 3]. Then again, in October of 2001, the Respondent's medical license was suspended after the Texas Medical Board discovered that the Respondent had relapsed in his drug addiction. [Govt. Exh. 6]. Thereafter, on May 17, 2002, the Texas Medical Board revoked Respondent's Texas medical license in light of his abuse of controlled substances and his prescribing controlled substances to his family members for his own personal use; however, the revocation was stayed and the Respondent was placed on a term of probation for ten years. [Govt. Exh. 7; Resp. Exh. 4]. In addition to the stay of revocation and the term of probation, the Respondent was required to surrender his DEA Certificate of Registration and his Texas DPS controlled substance registration. [*Id.*].

However, in 2006, the Texas Medical Board allowed the Respondent to seek a modification of the May 17, 2002 Order, and the Respondent was subsequently permitted to apply to the DEA and the Texas DPS for controlled substance registrations in Schedule V only. [Govt. Exh. 10; Resp. Exh. 2]. Additionally, the June 2, 2006 Order mandated that, if Respondent were to receive authority to prescribe Schedule V controlled substances, then his prescribing authority would be restricted to hospital admission patients only. [*Id.*].

In spite of the Respondent's past history, the most recent Texas Medical Board Order, dated August 26, 2011, permits Respondent to reapply to the DEA and the Texas DPS for controlled substance registrations in Schedules II through V. [Govt. Exh. 11; Resp. Exh. 1].

[18] The Deputy Administrator has the authority to make such a determination pursuant to 28 C.F.R. §§ 0.100(b), 0.104 (2012).

However, the 2011 Order notes that, although the Board will allow the Respondent to reapply for these registrations, the decision of whether to grant or deny the Respondent's application is reserved for the issuing agency. [*Id.*].

Therefore, while the Respondent's Texas medical license is not currently suspended or revoked, the Respondent is currently the subject of the 2011 Agreed Order, by which the Respondent must abide. [*Id.*]. Although the Respondent's medical license has been the subject of numerous disciplinary actions by the Texas Medical Board, I find that the current recommendation of the Texas Medical Board permits the Respondent to apply for a DEA registration in Schedules II through V. [*Id.*]. However, the Texas Medical Board did not directly recommend that the Respondent's DEA application for registration should be granted. [*Id.*]. In fact, the Texas Medical Board recognizes that the decision of whether to grant or deny the Respondent's DEA application is entirely reserved to the DEA. [*Id.*]. Thus, I find that the decision of the Texas Medical Board neither weighs in favor of granting nor denying the Respondent's application for a DEA Certificate of Registration in Schedules II through V.

2. Factors Two and Four: Applicant's Experience With Controlled Substances and Applicant's Compliance With Applicable State, Federal, or Local Laws Relating to Controlled Substances

Respondent's experience with controlled substances and his compliance with applicable laws related to the handling of controlled substances are relevant to determining the public interest in this case. ''Pursuant to 21 U.S.C. 822(b), '[p]ersons registered by the Attorney General under this subchapter to . . . dispense controlled substances . . . are authorized to possess . . . or dispense such substances . . . to the extent authorized by their registration and in conformity with the other provisions of this subchapter.' '' *Leonard E. Reaves, III, M.D.,* 63 FR 44,471, 44,473 (DEA 1998) (registration revoked after physician was prescribing outside the scope of his DEA registration). Additionally, except as authorized, ''it shall be unlawful for any person knowingly or intentionally to . . . dispense, or possess with intent to . . . dispense a controlled substance.'' 21 U.S.C. 841(a)(1) (2006); *see* 21 U.S.C. 802(10) (''''dispense' means to deliver a controlled substance to an ultimate user . . . pursuant to the lawful order of, a practitioner, including the prescribing . . . of a controlled substance''); *see also* 21 CFR 1301.13(a) (providing that ''[n]o person required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued by the Administrator to such person.'').

In this case, the Respondent's experience with controlled substances has been troubled for a majority of his career. [Govt. Exh. 3–11; Resp. Exh. 1–4]. Respondent has struggled with addiction to controlled substances; although, now the Respondent is sober and has been sober for eleven years. [Tr. 96, 122]. Additionally, the Respondent prescribed controlled substances to his family members without maintaining proper records and a majority of those prescriptions Respondent obtained for his own addiction purposes. [Tr. 93].

Respondent also prescribed Schedule III and IV controlled substances in violation of his 2002 Agreed Order, modified in 2006, and Texas DPS and DEA registrations. [Govt. Exh. 10; Resp. Exh. 2]. Specifically, the Respondent was only authorized by his DEA registration to prescribe Schedule V controlled substances, and by his modified Agreed Order, to prescribe such substances to hospital admitted patients. Yet, the Respondent prescribed 1,071 Schedule III and IV controlled substances to non-hospital admitted patients over the course of one year. [Govt. Exh. 2, 10; Resp. Exh. 2]. In fact, the Respondent had been prescribing outside the scope of his registration since 2009 and only stopped doing so in April of 2011, after DI McLaughlin visited the Respondent at the Clinic and informed him that he could not prescribe Schedule III and IV controlled substances when his DEA registration was restricted to Schedule V controlled substances. [Tr. 23, 139].

The Respondent blatantly disregarded the restrictions that had been placed on his authority to prescribe controlled substances. Although the Respondent claims that he would not abuse his registration in the future, in light of his past behavior his claim cannot be trusted. His history and experience with controlled substances throughout his medical career is not indicative of a compliant registrant. Thus, I find that these factors weigh against the granting of Respondent's application for a DEA Certificate of Registration.

3. Factor Three: Applicant's Conviction Record Relating to Controlled Substances

Pursuant to 21 U.S.C. 823(f)(3) (2006), the Deputy Administrator may deny a pending application for a DEA Certificate of Registration upon a finding that the applicant has been convicted of a felony related to controlled substances under state or federal law. *See Barry H. Brooks, M.D.,* 66 FR 18,305, 18,307 (DEA 2001); *John S. Noell, M.D.,* 56 FR 12,038, 12,039 (DEA 1991); *Thomas G. Easter II, M.D.,* 69 FR 5,579, 5,580 (DEA 2004).

In this case, the record contains ample evidence that Respondent has been convicted of two felony offenses related to the dispensing of controlled substances. [ALJ Exh. 5; Govt. Exh. 13]. Respondent has a 2001 felony conviction for obtaining a controlled substance by fraud in violation of 21 U.S.C. 843(a)(3). [ALJ Exh. 5]. In addition, the Respondent has a 2011 felony conviction for issuing prescriptions for Schedule III and IV controlled substances in violation of his restricted Schedule V DEA registration, thus violating 21 U.S.C. 842(a)(1) and (c)(2)(B). [Govt. Exh. 13]. Therefore, I find that this factor weighs against the granting of Respondent's application for a DEA Certificate of Registration.

4. Factor Five: Such Other Conduct Which May Threaten the Public Health and Safety

Under Factor Five, the Deputy Administrator is authorized to consider ''other conduct which may threaten the public health and safety.'' 21 U.S.C. 823(f)(5) (2006). This factor encompasses ''conduct which creates a probable or possible threat (and not only an actual [threat]) to public health and safety.'' *Jacobo Dreszer, M.D.,* 76 FR 19,386, 19,401 FN2 (DEA 2011). The Agency has long held that a practitioner's self-abuse of controlled substances constitutes ''conduct which may threaten public health and safety.'' 21 U.S.C. § 823(f)(5) (2006); *see also Tony T. Bui, M.D.,* 75 Fed. Reg. 49,979, 49,990 (DEA 2010); *Kenneth Wayne Green, Jr., M.D.,* 59 FR 51,453 (DEA 1994); *David E. Trawick, D.D.S.,* 53 Fed. Reg. 5,326 (DEA 1988). Additionally, the DEA has consistently held that ''[c]andor during DEA investigations, regardless of the severity of the violations alleged, is considered by the DEA to be an important factor when assessing whether a . . . registration is consistent with the public interest'' and noting that a registrant's ''lack of candor and failure to take responsibility for his past legal troubles . . . provide substantial evidence that his registration is inconsistent with the public interest.'' *Jeri Hassman, M.D.,* 75 FR 8,194, 8,236 (DEA 2010); *see also Prince George Daniels DDS,* 60 FR 62,884, 62,887 (DEA 1995); *see also Ronald Lynch, M.D.,* 75 FR 78,745, 78,749 (DEA 2010)

(Respondent's attempts to minimize misconduct held to undermine acceptance of responsibility). Furthermore, the Agency is not required to ''consider community impact evidence in exercising its authority.. . .'' *Linda Sue Cheek, M.D.,* 76 FR 66,972, 66,973 (DEA 2011); *see also Steven M. Abbadessa, D.O.,* 74 FR 10,077, 10,078 (DEA 2009) (the hardship imposed because Respondent lacks a registration is not a relevant consideration under the Controlled Substances Act).

Here, Respondent self-abused and prescribed significant quantities of controlled substances to his family members, from approximately 1993 through October 22, 2001, which he reports as his sobriety date. [Govt. Exh. 3–10]. Such unlawful ingestion and prescribing of controlled substances clearly places the public health and safety in jeopardy. This unlawful conduct led to the temporary suspension of Respondent's Texas medical license, a felony conviction, the surrender of Respondent's DEA registration, and revocation of Respondent's Texas medical license.[19] [Govt. Exh. 3, 6–7; ALJ Exh. 5; Resp. Exh. 4].

Yet, I find that Respondent has successfully addressed his addiction problem and returned to the practice of medicine by regaining his medical license in 2002. [Govt. Exh. 7; Resp. Exh. 4]. At the hearing, Respondent proffered substantial and detailed evidence regarding his impressive recovery program, including numerous negative drug screens he has taken over the past eleven years. [Tr. 103–108]. As the Deputy Administrator has previously determined, ''[t]he paramount issue is not how much time has elapsed since [the Respondent's] unlawful conduct, but rather, whether during that time [the] Respondent has learned from past mistakes and has demonstrated that he would handle controlled substances properly if entrusted with a DEA registration.'' *Leonardo V. Lopez, M.D.,* 54 FR 36,915 (DEA 1989). Even though it has been previously found that time, alone, is not dispositive in such situations, it is certainly an appropriate factor to be considered. *See Robert G. Hallermeier, M.D.,* 62 FR 26,818 (DEA 1997) (four years); *John Porter Richards, D.O.,* 61 FR 13,878 (DEA 1996) (ten years); *Norman Alpert, M.D.,* 58 FR 67,420, 67,421 (DEA 1993) (seven years).

[19] Although the Respondent's medical license was temporarily suspended and later revoked, both of these actions were stayed and the Respondent was placed on probation each time. *See* Govt. Exh. 3, 6, 7 and Resp. Exh. 4.

In Respondent's case, the fact that he has been sober for over eleven years and continues to abide by all terms and conditions imposed upon him regarding his sobriety shows that Respondent intends to remain sober. In addition, there has been no evidence that the Respondent has suffered any sort of relapse to addiction since his reported sobriety date of October 22, 2001. Therefore, the public interest is not being threatened by the Respondent's previous addiction to hydrocodone, because it does not appear that the Respondent will return to this conduct.

However, although the Respondent attempted to take responsibility for his unlawful prescribing of Schedules III and IV controlled substances by admitting that his actions were wrong, he continuously provided justifications for his actions in an effort to persuade the Court that his violations of his DEA registration were justified under the circumstances. [Tr. 134–139, 168–172, 204, 206; Resp. Exh. 13]. Moreover, Respondent repeatedly provided the Court with reasons as to why it was not feasible for him to refer his patients to another doctor who could prescribe the necessary scheduled controlled substance, or to simply refuse to prescribe outside of his DEA and Texas DPS registrations. [*Id.*]. I find that Respondent's misplaced justifications amount to a failure to take full responsibility for his actions.

Moreover, although the Respondent attempts to justify the need for his DEA registration because it would be in his patient's and the community's best interest, this reasoning has failed in determining whether the Respondent's application should be granted. Community impact evidence has been found irrelevant in DEA precedent. *Linda Sue Cheek, M.D.,* 76 FR at 66,973; *see also Steven M. Abbadessa, D.O.,* 74 FR at 10,078.

As to candor, the record demonstrates that the Respondent falsely reported his compliance with the Agreed Order when he was in fact noncompliant. Specifically, the Respondent reported that he was abiding by his restricted prescribing authority, when he was actually prescribing outside the scope of that authority. Such lack of candor to government officials weighs against the Respondent's application being granted. [Resp. Exh. 5, 6].

In sum, Respondent has conclusively demonstrated his strong recovery from his previous addiction and his successful maintenance of his sobriety for the past eleven years. Therefore, I find that Respondent's history of substance abuse does not weigh against the granting of Respondent's application for a DEA Certificate of Registration.

The Respondent has admitted his wrongdoing in prescribing outside his authority. However, each time Respondent admitted that his past conduct was a violation, he attempted to offer justifications for his conduct in an effort to minimize his wrongdoing. Therefore, I find that Respondent's half-hearted attempt to take responsibility for these actions weighs against the granting of Respondent's application for a DEA Certificate of Registration.

C. Conclusion and Recommendation

I conclude that the Government has proven, by a preponderance of the evidence, that Respondent's application for a DEA registration in Schedules II through V should be denied. Respondent has previously been granted numerous opportunities to act as a responsible DEA registrant and has failed each time. I do not see any conditions that could be placed on Respondent's registration now that would ensure that Respondent would be a responsible DEA registrant, especially considering that Respondent was afforded the opportunity to hold a DEA registration for Schedule V controlled substances after his substance abuse and felony conviction, and yet, Respondent violated his registration.

Moreover, had the Respondent not been caught violating his prescriptive authority, it is likely that Respondent would have continued prescribing outside the scope of his registration. Although Respondent now claims that he would be a compliant registrant, if he were to receive a DEA registration, I find reason to doubt this claim. Respondent has been noncompliant, yet has represented himself as compliant on several occasions to Board representatives.

In this case, the Respondent has shown that his ability to properly handle controlled substances and abide by the law has been tainted. I find that Respondent has not taken full responsibility for his mistakes. Therefore, I find that granting Respondent's application for a DEA Certificate of Registration is against the public interest, and I recommend that his application be denied.

Date: February 5, 2013.

Gail A. Randall,

Administrative Law Judge.

[FR Doc. 2013–17890 Filed 7–24–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Plan Asset Transactions Determined by In-House Asset Managers Under Prohibited Transaction Class Exemption 96–23

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Plan Asset Transactions Determined by In-House Asset Managers under Prohibited Transaction Class Exemption 96–23,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before August 26, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201305-1210-005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The Prohibited Transaction Class Exemption for Plan Asset Transactions Determined by In-House Asset Managers (PTE 96–23) permits various parties in interest to an employee benefit plan to engage in transactions involving plan assets if, among other requirements, the assets are managed by an in-house asset manager (INHAM). The information collection requirements that are PTE 96–23 conditions include written policies and procedures by an INHAM and audit requirements. An independent auditor will use the written policies and procedures to determine the INHAM's compliance with the exemption. An independent auditor will conduct an annual exemption audit and make a determination whether the INHAM is in compliance with the written policies and procedures and the objective requirements of the exemption. These information collections are designed to safeguard participants and beneficiaries in plans managed by INHAMS that are involved in transactions covered by the exemption. The exemption does not require any reporting or filing with the Federal government. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 27, 2012 (77 FR 70828).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0145.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. It should also be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0145. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Plan Asset Transactions Determined by In-House Asset Managers under Prohibited Transaction Class Exemption 96–23.

OMB Control Number: 1210–0145.

Affected Public: Private Sector—businesses or other for-profits and not-for profit institutions.

Total Estimated Number of Respondents: 20.

Total Estimated Number of Responses: 20.

Total Estimated Annual Burden Hours: 940.

Total Estimated Annual Other Costs Burden: $400,000.

Dated: July 15, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–17879 Filed 7–24–13; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL LABOR RELATIONS BOARD

Restructuring of National Labor Relations Board's Headquarters' Offices

AGENCY: National Labor Relations Board.

ACTION: Notice of Reorganization; Restructuring of National Labor Relations Board's Headquarters' Offices.

Authority: Sections 3, 4, 6, and 10 of the National Labor Relations Act, 29 U.S.C. Sec. 3, 4, 6, and 10.

SUMMARY: This notice advises the public that the National Labor Relations Board is restructuring and realigning the location and lines of authority of certain of its Headquarters' offices to create an independent Division of Legal Counsel reporting to the Office of the General Counsel.

These administrative changes are being adopted in order to centralize the services of several Headquarters' offices, eliminate duplication of functions, improve the delivery of services, and streamline, integrate and enhance management functions.

DATES: *Effective Date:* August 11, 2013.

ADDRESSES: National Labor Relations Board, 1099 14th Street NW., Room 11800, Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: William B. Cowen, Solicitor, National Labor Relations Board, 1099 14th Street NW., Washington, DC 20570. Telephone: (202) 273–2910 (this is not a toll-free number), 1–866–315–6572 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The National Labor Relations Board is centralizing the services of several Headquarters' offices and restructuring them into one independent Division of Legal Counsel. This new Division will have three branches—(1) Ethics, Employment and Administrative Law, (2) Contempt, Compliance and Special Litigation, and (3) Freedom of Information Act (FOIA) Branch. When dealing with matters on behalf of the five-member Board or the various Board-side offices, the Division of Legal Counsel will coordinate through the Office of the Solicitor.

The Ethics, Employment and Administrative Law Branch will provide the Agency with legal counsel and advice in the areas of labor relations, employment and personnel law (including claims involving MSPB, FLRA, EEOC, U.S. Office of Special Counsel), government contracting, Federal Tort Claims Act matters, and government and bar ethics.

The Contempt, Compliance and Special Litigation Branch will provide compliance and contempt advice and litigation involving, among other things, the Bankruptcy Code, the Federal Debt Collection Procedures Act and compliance with outstanding court judgments; conduct litigation and provide the Agency with advice and assistance when programs, statutes or outside proceedings threaten the Agency's ability to carry out its mission; ensure Agency compliance with government regulations that affect its work, such as the Administrative Procedures Act, statutes relating to Agency rulemaking, the Sunshine Act, the Health Insurance Portability and Accountability Act, the Right to Financial Privacy Act; and provide guidance and conduct litigation involving FOIA and Privacy Act issues.

The FOIA Branch will provide advice on FOIA and some related Privacy Act issues; handle all FOIA requests and appeals for Headquarters and Regional Offices; and prepare FOIA guideline memoranda and annual FOIA reports.

Lead Technology Counsel will conduct litigation and provide advice and assistance involving e-litigation matters.

These administrative changes are prompted by the Agency's streamlining initiative and is responsive to the requests for ''one-stop shopping'' for technical expertise from internal customers, to allow them to better focus on their mission-critical functions.

The following Headquarters' offices will be affected by these administrative changes:

Labor Relations and Special Counsel moves from the Division of Operations-Management to the Ethics, Employment and Administrative Law Branch of the Division of Legal Counsel;

Government Ethics moves from Administration Division and Bar Ethics moves from the Division of Enforcement Litigation to the Ethics, Employment and Administrative Law Branch of the Division of Legal Counsel;

Special Litigation Branch, and Contempt Litigation and Compliance Branch moves from Enforcement Litigation Division to Contempt, Compliance and Special Litigation Branch of the Division of Legal Counsel;

FOIA processing and preparation of FOIA guidance and reporting functions of the Research and Policy Planning Branch moves from the Division of Advice to the FOIA Branch of the Division of Legal Counsel. Additionally, FOIA appeals processing on the Board-side moves from the Solicitor's Office and FOIA appeals processing on the General Counsel-side moves from the Office of Appeals in the Enforcement Litigation Division to the FOIA Branch of the Division of Legal Counsel with Jennifer Abruzzo as the Chief FOIA Officer for the Agency; and

Lead Technology Counsel moves from the Division of Enforcement Litigation and will directly report to the Associate General Counsel of the Division.

These administrative changes are being adopted in order to centralize the services of several Headquarters' offices, eliminate duplication of functions, improve the delivery of services, and streamline, integrate and enhance management functions. Because these administrative changes relate to the internal management of the Agency, pursuant to 5 U.S.C. 553, they are exempted from the notice and comment requirements of the Administrative Procedure Act.

Dated: Washington, DC, July 19, 2013.

By direction of the Board.

William B. Cowen,

Solicitor.

[FR Doc. 2013–17817 Filed 7–24–13; 8:45 am]

BILLING CODE 7545–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings

The National Science Board, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a teleconference meeting of the Committee on Strategy and Budget.

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: Monday, July 29, 2013 from 4:00–5:00 p.m.

SUBJECT MATTER: Discussion of NSF FY 2015 budget development.

STATUS: Closed.

PLACE: This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201Wilson Blvd., Arlington, VA 22230.

UPDATES: Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information. Meeting information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/.*

AGENCY CONTACT: Jacqueline Meszaros, contact at (703) 292–7000.

Ann Bushmiller,

NSB Senior Legal Counsel.

[FR Doc. 2013–17954 Filed 7–23–13; 11:15 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket No. PI2013–1; Order No. 1782]

Public Inquiry on Competitive Products Fund

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is establishing a proceeding to review several issues concerning the Competitive Products Fund. These include inter-fund transfers (of amounts from the Postal Service Fund to the Competitive Products Fund); the use of amounts from the Competitive Products Fund to prepay certain costs; and

calculation and transfer of the assumed federal income tax. The Commission is also issuing a related issuing an information request directed to the Postal Service. Following receipt of the Postal Service's responses, the Commission may take further steps, including issuance of a notice of inquiry or an invitation for public comment. This notice informs the public of this proceeding and the information request and takes other administrative steps.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Background
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I. Introduction

In the Fiscal Year (FY) 2012 Annual Compliance Determination Report (ACD), the Commission found that transfers between the Postal Service Fund and the Competitive Products Fund raised several issues of first impression.[1] The Commission stated that it would initiate a proceeding to review transfers from the Postal Service Fund to the Competitive Products Fund, the use of amounts from the Competitive Products Fund to prepay competitive products' future years' institutional costs, and the calculation and transfer of the assumed federal income tax. *Id.* (citing 39 U.S.C. 2011(h)(2)(C)(ii) and 39 CFR 3060.42).

II. Background

In Docket No. ACR2012, the Commission found that beginning in October 2012, the National Trial Balance showed a zero balance for Account Number 12010.000 Competitive Products Investments Fund, and the corresponding Competitive Products Fund line item was eliminated from Table III-Detail of Treasury Securities Outstanding of the Monthly Statement of the Public Debt of the United States.[2] The Postal Service informed the Commission that the zero balance likely resulted from a transfer of the balance in the Competitive Products Fund to the Postal Service Fund to prepay competitive products' shares of future years' institutional costs.[3] The zero balance in the Competitive Products Fund raised concerns that the Postal Service would be unable to comply with 39 U.S.C. 3634, which requires that the Postal Service transfer the assumed federal income tax on competitive products for the previous fiscal year from the Competitive Products Fund to the Postal Service Fund by January 15th each year.

The Postal Service explained that on October 12, 2012, it transferred the balance of the Competitive Products Fund to the Postal Service Fund. *Id.* The Postal Service stated that the assumed federal income tax transfer occurred on January 10, 2013 by transferring the amount representing the Net Income after Tax from the Postal Service Fund to the Competitive Products Fund. *Id.* at question 9. The Postal Service stated that this transfer was mathematically identical to transferring the Net Income before Tax from the Postal Service Fund to the Competitive Products Fund so that the assumed federal income tax could be transferred back from the Competitive Products Fund to the Postal Service Fund. *Id.* Therefore, on January 10, 2013, the Postal Service transferred the FY 2012 Net Income after Tax amount of $525,564,000 from the Postal Service Fund to the Competitive Products Fund. *Id.* On January 11, 2013, as an additional prepayment of competitive products' shares of future years' institutional costs, the Postal Service transferred the balance of the Competitive Products Fund to the Postal Service Fund. *Id.*

III. Public Inquiry

Since the issues associated with these transfers were not within the scope of the ACD, the Commission stated that it would initiate a proceeding to review transfers of amounts from the Postal Service Fund to the Competitive Products Fund, the use of amounts from the Competitive Products Fund to prepay competitive products' future years' institutional costs, and the calculation and transfer of the assumed federal income tax. FY 2012 ACD at 175 (citing 39 U.S.C. 2011(h)(2)(C)(ii) and 39 CFR 3060.42). To foster transparency, the Commission establishes Docket No. PI2013–1 to review these issues.

Commission Information Request No. 1 (CIR No. 1) is issued contemporaneously with this Notice. It seeks further clarification from the Postal Service on the issues described in this Notice in order to increase transparency and develop a more complete record. After the Commission has received the Postal Service's responses, the Commission may issue a Notice of Inquiry or invite public comment.

IV. Public Representative

Section 505 of title 39 requires designation of an officer of the Commission in all public proceedings to represent the interests of the general public. The Commission hereby designates Richard A. Oliver as Public Representative in this proceeding.

V. Ordering Paragraphs

It is ordered:

1. The Commission hereby establishes Docket No. PI2013–1 to review the issues related to the Competitive Products Fund set forth in the Commission's FY 2012 Annual Compliance Determination.
2. Richard A. Oliver is designated as the Public Representative to represent the interests of the general public in this proceeding.
3. The Secretary shall arrange for publication of this notice in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–17838 Filed 7–24–13; 8:45 am]

BILLING CODE 7710–FW–P

[1] Docket No. ACR2012, Annual Compliance Determination Report Fiscal Year 2012, March 28, 2013, at 175 (FY 2012 ACD).

[2] *See* Docket No. ACR2012, Chairman's Information Request No. 8, February 8, 2013, at 5.

[3] Docket No. ACR2012, Responses of the United States Postal Service to Questions 1–6 and 8–13 of Chairman's Information Request No. 8, February 15, 2013, at question 8 (ACD CHIR Response).

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:

Form N–SAR. OMB Control No. 3235–0330, SEC File No. 270–292.

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 (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Form N–SAR (OMB Control No. 3235–0330, 17 CFR 249.330) is the form used by all registered investment companies with the exception of face

amount certificate companies, to comply with the periodic filing and disclosure requirements imposed by Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act''), and of rules 30a–1 and 30b1–1 thereunder (17 CFR 270.30a–1 and 17 CFR 270.30b1–1). The information required to be filed with the Commission assures the public availability of the information and permits verification of compliance with Investment Company Act requirements. Registered unit investment trusts are required to provide this information on an annual report filed with the Commission on Form N–SAR pursuant to rule 30a–1 under the Investment Company Act, and registered management investment companies must submit the required information on a semi-annual report on Form N–SAR pursuant to rule 30b1–1 under the Investment Company Act.

The Commission estimates that the total number of respondents is 3,270 and the total annual number of responses is 5,770 ((2,500 management investment company respondents × 2 responses per year) + (770 unit investment trust respondents × 1 response per year)). The Commission estimates that each registrant filing a report on Form N–SAR would spend, on average, approximately 14.25 hours in preparing and filing reports on Form N–SAR and that the total hour burden for all filings on Form N–SAR would be 82,223 hours.

The collection of information under Form N–SAR is mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 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: July 19, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–17840 Filed 7–24–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70010; File No. SR–CTA/CQ–2013–04]

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Nineteenth Charges Amendment to the Second Restatement of the CTA Plan and Eleventh Charges Amendment to the Restated CQ Plan

July 19, 2013.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 thereunder,[2] notice is hereby given that on July 10, 2013, the Consolidated Tape Association (''CTA'') Plan and Consolidated Quotation (''CQ'') Plan participants (''Participants'') [3] filed with the Securities and Exchange Commission (''Commission'') a proposal to amend the Second Restatement of the CTA Plan and Restated CQ Plan (collectively, the ''Plans'').[4] The amendments (''June Fee Simplification Amendments'') respond to requests from industry representatives that sit on the Plans' Advisory Committees that the Participants simplify the Plans' existing market data fee schedules and reduce associated administrative burdens. The Advisory Committee consists of individuals representing the key market data customer segments, including retail brokers, broker-dealers, alternative trading systems and vendors. Acting on the recommendations of the Advisory Committee, the Participants seek to compress the current 14-tier Network A device rate schedule into just four tiers, consolidate the Plans' eight fee schedules into one, update that fee schedule, and realign the Plans' charges more closely with the services the Plans provide (collectively, the ''Fee Changes''), without materially changing the revenues the current fee schedules generate.

The Participants first introduced the Fee Changes in the Sixteenth Charges Amendment to the CTA Plan [5], as modified by the Seventeenth Charges Amendment to the CTA Plan [6] and in the Eighth Charges Amendment to the CQ Plan [7], as modified by the Ninth Charges Amendment to the CQ Plan [8] (collectively, the ''March Fee Simplification Amendments''). On May 10, 2013, the Participants filed Amendments to reverse the Fee Changes introduced in the March Fee Simplification Amendments in the Eighteenth Charges Amendment to the CTA Plan [9] and the Tenth Charges Amendment to the CQ Plan (''Reversal Amendments'') [10]. The June Fee Simplification Amendments propose to re-introduce them.

The Commission received two comment letters regarding the Sixteenth Charges Amendment to the CTA Plan and the Eighth Charges Amendment to the CQ Plan [11] and received one comment letter regarding the Seventeenth Charges Amendment to the CQ Plan and the Ninth Charges Amendment to the CQ Plan.[12]

Pursuant to Rule 608(b)(3)(i) under Regulation NMS,[13] the Participants

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[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] Each participant executed the proposed amendment. The Participants are: BATS Exchange, Inc., BATS–Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc. (''EDGA''), EDGX Exchange, Inc. (''EDGX''), Financial Industry Regulatory Authority, Inc. (''FINRA''), International Securities Exchange, LLC, NASDAQ OMX BX, Inc. (''Nasdaq BX''), NASDAQ OMX PHLX, Inc. (''Nasdaq PSX''), Nasdaq Stock Market LLC, National Stock Exchange, New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC (formerly NYSE Amex, Inc.), and NYSE Arca, Inc. (''NYSE Arca'').

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (temporarily authorizing the CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (January 28, 1980) (permanently authorizing the CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] *See* Securities Exchange Act Release No. 69157 (March 18, 2013), 78 FR 17946 (March 25, 2013) (File No. SR–CTA/CQ–2013–01).

[6] *See* Securities Exchange Act Release No. 69318 (April 5, 2013), 78 FR 21648 (April 11, 2013) (File No. SR–CTA/CQ–2013–02).

[7] *See supra* note 5.

[8] *See supra* note 6.

[9] *See* Securities Exchange Act Release No. 69593 (May 16, 2013), 78 FR 30365 (May 22, 2013) (File No. SR–CTA/CQ–2013–03)

[10] *See id.*

[11] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Henry Schwartz, President and Founder, Trade Alert LLC (''Trade Alerts''), dated March 20, 2013 (''Trade Alerts Letter'') and from Kimberly Unger, Esq., CEO and Executive Director, The Security Traders Association of New York, Inc. (''STANY''), dated April 10, 2013 (''STANY Letter'').

[12] *See* Letter to the Commission from James Smith, Director, Hoffman Estates, IL, dated April 8, 2013.

[13] 17 CFR 242.608(b)(3)(i).

designated the June Fee Simplification Amendments as establishing or changing a fee or other charge collected on their behalf in connection with access to, or use of, the facilities contemplated by the Plans. As a result, the June Fee Simplification Amendments became effective upon filing with the Commission. At any time within 60 days of the filing of the June Simplification Amendments, the Commission may summarily abrogate the June Fee Simplification Amendments and require that the June Fee Simplification Amendments be refiled in accordance with paragraph (a)(1) of Rule 608 and reviewed in accordance with paragraph (b)(2) of Rule 608, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

The Commission is publishing this notice to solicit comments from interested persons on the proposed June Fee Simplification Amendments.

I. Rule 608(a)

A. Purpose of the Amendments

1. In General

Prior to the March Fee Simplification Amendments, the Participants last filed a fee structure change in 1986. Since then, however, significant change has characterized the industry, stemming in large measure from technological advances, the advent of trading algorithms and automated trading, new investment patterns, new securities products, unprecedented levels of trading, decimalization, internationalization and developments in portfolio analysis and securities research.

Industry representatives who sit on the Plans' Advisory Committee have noted these changes and have urged adoption of a modernized, simpler, easier to read fee schedule. Despite the STANY Letter's assertions to the contrary, the Participants have discussed the proposed fee changes with those industry representatives on multiple occasions. The Participants recommend that STANY speak with the Advisory Committee and incorporate their views into any future comment letter. The industry representatives have requested a reduction in the rate spread inherent in the 14-tier Network A device rate structure, reduced administrative burdens and a simplified pricing structure that is consistent with current technology and that promotes the use of real-time market data. Those are the goals of the Fee Changes.

The Fee Changes also move in the direction of harmonizing fees between Network A and Network B and of harmonizing fees under the Plans with fees under two other national market system plans: The Joint Self-Regulatory Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (the ''Nasdaq/UTP Plan'') and the OPRA Plan. This would reduce administrative burdens for broker-dealers and other market data users and simplify fee calculations.

The June Fee Simplification Amendments also propose to consolidate, simplify and update the market data fee schedules under both Plans to arrive at a single, consolidated CTA/CQ Fee Schedule. This would make it easier for market data users to understand and apply the fee schedule.

The proposed Fee Changes rebalance the fee schedule but are approximately revenue neutral to the overall market data revenues generated under the Plans.

2. The Proposed Fee Schedule Changes

a. Professional Subscriber Charges

i. Network A

A principal purpose of the proposed Fee Changes is to address the 14-tier fee structure that the Participants have in place for Network A professional subscribers. That structure has been in place for more than 25 years. Under the tiered structure, a firm reports how many display devices the professional subscribers it employs use and that number then is used to determine the tier within which the firm falls.

For reporting purposes, a display device is any device capable of displaying market data. Where a professional subscriber receives market data services from multiple vendors, separate device fees apply for each vendor's service. Where a vendor provides market data to a professional subscriber by means of multiple applications, separate device fees apply for each application.

At one extreme, the current Network A fee tiered structure imposes a monthly charge of $18.75 per device for firms employing professional subscribers who use more than 10,000 devices. At the other extreme, it imposes a monthly charge of $127.25 per device for a single professional subscriber. (For Network A, the rates entitle the professional subscriber to receive both Network A last sale information under the CTA Plan and Network A quotation information under the CQ Plan.)

Market data users have told the Participants that they find the 14-tier structure challenging to administer and the $18.75-to-$127.25 spread between the highest and lowest tiers too wide. The proposed changes seek to address both concerns. The Participants propose a new four-tier monthly Network A fee structure for the display units of professional subscribers, as follows:

1. 1–2 devices	$50.00
2. 3–999 devices	30.00
3. 1,000–9,999 devices	25.00
4. 10,000 devices or more	20.00

The proposed narrowing of the gap between the highest rates and the lowest rates would result in a more equitable rate distribution and benefit both individuals who have not qualified as nonprofessional subscribers and smaller firms. In particular, individuals and firms having one device would see their monthly Network A rate drop from $127.25 to $50, and firms having two devices would see their monthly Network A rate drop from $79.50 per device to $50 per device. Firms whose professional subscriber employees use between 3 and 29 devices would also have lower rates.

On the other hand, larger firms would see higher rates in respect of their internal distribution of market data to their employees. For example, the rates for firms whose employees use between 750 devices and 9,999 devices would rise from $19.75 or $20.75 per device to $25 per device, and the rates for firms whose employees use more than 10,000 devices would rise from $18.75 to $20.00.

Many firms distribute market data to ''Customers'' and pay CTA/CQ fees on behalf of those Customers. Those firms should pay less for their external distribution to each Customer because the rates that they would pay on behalf of each Customer would drop (assuming that the firm does not provide service to more than 29 devices of the Customer). The amount of the decrease would depend on the tier into which the Customer falls.

''Customer'' refers to a consultant to the firm, an individual client of the firm, an independent contractor who may be associated with the firm but is not an employee of the firm, a trading company that receives market data from the firm for use by its traders (who may or may not be employees of that trading company), and any other corporate, broker-dealer or other entity to which the firm provides data.

A firm may only include its own employees in determining the tier applicable to it. It may not include in that determination any Customer to which it provides market data or the employees of any Customer. The rate applicable to each Customer is separately determined based on the tier into which the Customer falls.

In monitoring compliance by market data recipients, the Network A Administrator has discovered improper use of the employee-independent contractor distinction. Some firms with non-employment ties to traders and others have inappropriately characterized those traders and others as ''employees,'' thereby causing those persons to be included in the firm's tier and allowing a lower per-device rate to apply to those persons.

For that reason, the amendments propose to add a footnote (proposed footnote 2) to clarify that a firm may only include employees and not independent contractors in the firm's tier for purposes of determining the device fee rate applicable to data recipients.

The footnote does not propose to change the Participant's long-standing policy regarding the employee-independent contractor distinction. CTA deems a person to be an ''employee'' of a data recipient if the data recipient deems the person to be an employee in its dealings with the Internal Revenue Service; that is, if the data recipient issues a Form W–2 in respect of the person, rather than a Form 1099 or another Internal Revenue Service form. Persons that are not W–2 employees maintain independent contractor status or some other status. For any person located in a country other than the United States, the person would qualify as an ''employee'' for market data purposes if the firm characterizes the person as an ''employee'' for tax purposes under that country's income tax laws and rules. If a country does not have tax laws and rules that differentiate an employee from an independent contractor, the firm should apply the standard that the United States Internal Revenue Service uses to determine whether a person qualifies as an employee.[14] In addition, if a firm holds an active Form U–4 for an individual, and that individual is engaged in the securities business of the firm, the individual shall be deemed to be an ''employee'' of the firm for Network A professional subscriber device fee purposes.

CTA maintains a written statement of its employee-independent contractor policy on its Web site at *http://www.nyxdata.com/Docs/Market-Data/Policies.* It also describes the ''employee'' definition in its ''Multiple Installations, Single User'' (''MISU'') policy, which can be found at the same Web site.

Also for purposes of discouraging abuse, the amendments propose to eliminate the reference to a firm's officers and partners as authorized internal distributees of a firm, entitled to be included in the firm's tier for per-device rate purposes.

Together with the other proposed amendments to the fee schedule, it is anticipated that the changes to the Network A professional subscriber tiered fee structure would not result in a material change in overall revenues under the Plans.

ii. Network B

Professional subscribers currently pay one amount for Network B last sale information and a separate amount for Network B quotation information. Firms that are members of a Participant currently pay slightly less than non-members. A member pays $27.25 per month per device to receive both last sale and quotation Network B information and a non-member pays $30.20. Network B is the only network that still distinguishes between members and non-members.

To simplify Network B professional subscriber rates and to remove the differential, the Participants propose a single monthly rate of $24.00 per device, applicable to both members and non-members.

The $24.00 Network B rate would amount to a savings for most professional subscribers, the majority of which currently receive both last sale and quotation information. Network B has a small number of data recipients who receive last sale information or quotation information, but not both. The change would amount to a fee increase for them. The Network B Participants note that Network A and the Participants in the Nasdaq/UTP Plan and the OPRA Plan have not charged separately for last sale information and quotation information for many years.

The Participants believe that a single fee for Network B devices would prove administratively efficient for data users and the network administrators. They note that the Nasdaq/UTP Plan imposes a single fee of $20 for each device and that the OPRA Plan imposes a single fee (currently $25) for each device.

iii. Broker-Dealer Enterprise Maximums

Currently, the monthly broker-dealer enterprise maximums are set at $660,000 per month for Network A and $500,000 per month for Network B. For that amount, the enterprise maximums allow a broker-dealer to provide last sale and quotation information to an unlimited number of its own employees and its nonprofessional subscriber brokerage account customers. The Plans provide that the amounts of the broker-dealer enterprise maximums increase each calendar year by an amount equal to the percentage increase in the annual composite share volume for the preceding calendar year, subject to a maximum annual increase of five percent.

The Participants propose to modify the means for determining the increase in the broker-dealer enterprise maximums. Under the proposal, the Participants may increase the broker-dealer enterprise maximums for Network A and Network B by the affirmative vote of not less than two-thirds of the Participants, provided, however, that they may not increase either network's enterprise maximum by more than four percent for any calendar year. The Participants may elect not to increase the fee for any calendar year.

This proposed means for determining the increase in the broker-dealer enterprise maximums would reduce the amount of any one year's permissible increase from five percent to four percent and would better reflect inflation than does the current means. The maximum four percent increase is consistent with the average annual cost of living adjustment (''COLA'') as published by the Social Security Administration for Supplemental Security Income for the past 38 years.[15]

The Participants have not increased the Network A broker-dealer enterprise maximum for more than five years. They have not increased the Network B broker-dealer enterprise maximum since they first adopted it in 1999. They propose to increase the amount of both networks' enterprise maximums for 2013. As a result, the monthly Network A broker-dealer enterprise maximum would increase to $686,400 and the monthly Network B broker-dealer enterprise maximum would increase to $520,000. These changes would not take effect until the implementation date for the other changes set forth in the amendments. Currently, only one firm reaches the enterprise caps and, in the

[14] The Internal Revenue Service describes more fully who qualifies as an employee and who qualifies as an independent contractor in a publication that can be found at *http://www.irs.gov/pub/irs-pdf/p15a.pdf.*

[15] The Participants use COLA as the measure for the annual increase in the fixed fee that they pay to the network administrators for the administrators' services.

aggregate, the Fee Changes would reduce the fees payable by that firm by 13 percent, based on its April 2013 level of activity.

The STANY Letter expresses concern ''that the change gives the Participants the opportunity to increase monthly Network A and B fees without correlation to volume increases.'' First, we note that after many years of experience with the enterprise cap, the Participants have come to realize that year-to-year changes in volume do not reflect changes in data message traffic or inflation as well as the 38-year record of four percent increases in COLA. In recent years, message traffic has continued to grow, while volume remains lower than it was five years ago.

Additionally, it is possible that firms may reach the enterprise caps by means of merger, which could materially impact overall market data revenue without natural growth in the market. The reduction of the maximum annual increase from five percent to four percent, as well as the discretion given to the Participants to agree annually to a lower increase, or to no increase at all, should make the proposed change more palatable to the very small number of entities that take advantage of the enterprise cap.[16]

b. Nonprofessional Subscriber Charges

Currently, a firm pays $1.00 per month in respect of its first 250,000 Network A nonprofessional subscribers and $0.50 for Network A nonprofessional subscribers in excess of 250,000. A firm pays $1.00 per month for each of its Network B nonprofessional subscribers, regardless of how many such subscribers a firm has.

The Participants propose to harmonize the treatment of large and small firms by applying the $1.00 per month rate in respect of all Network A nonprofessional subscribers, regardless of the number of nonprofessional subscribers. This would also harmonize the Network A nonprofessional subscriber fee with the Network B nonprofessional subscriber fee, as well as the $1.00 nonprofessional subscriber fee payable under the Nasdaq/UTP Plan. (The fee applicable to nonprofessional subscribers under the OPRA Plan is $1.25.) The Participants note that the number of firms that have more than 250,000 Network A nonprofessional subscribers is very small.

[16] Currently, only one firm takes advantage of the Network A enterprise cap and only one firm takes advantage of the Network B enterprise cap.

c. Per-Query Charges

Currently, Network A and Network B impose identical three-tiered per-query rates as follows:

1 to 20 million quotes	$.0075 each.
20 to 40 million quotes	$.005 each.
Over 40 million quotes	$.0025 each.

The Participants propose to modify their per-query rate structure by replacing the three-tier structure with the same one-tier rate as the Nasdaq/UTP Plan and the OPRA Plan imposes: $.005 for each inquiry for both Network A and Network B.

As before, a vendor's per-query fee exposure for any nonprofessional subscriber is limited to $1.00 per month (*i.e.,* the nonprofessional subscriber rate.)

The single-tiered rate would simplify per-query calculations. It would also harmonize the Network A and Network B per-query fees with the Nasdaq/UTP Plan and the OPRA Plan per-query fees.

d. Access Fees

Current and proposed access fees for direct access to last sale prices are as follows:

Current Fees:

Network A	$1,000.00
Network B	350.00

Proposed Fees:

Network A	$1,250.00
Network B	750.00

Current and proposed access fees for indirect access to last sale prices are as follows:

Current Fees:

Network A	$500.00
Network B	200.00

Proposed Fees:

Network A	$750.00
Network B	400.00

Current and proposed access fees for direct access to quotation information are as follows:

Current Fees:

Network A	$1,100.00
Network B	400.00

Proposed Fees:

Network A	$1,750.00
Network B	1,250.00

Current and proposed access fees for indirect access to quotation information are as follows:

Current Fees:

Network A	$700.00
Network B	250.00

Proposed Fees:

Network A	$1,250.00
Network B	600.00

Access fees are charged to those who obtain Network A and Network B data feeds. Consistent with current practice, within each of a firm's billable accounts, the Participants only charge one access fee for last sale information and one access fee for quotation information, regardless of the number of data feeds that the firm receives for that account. The Participants believe that increases in these fees are fair and reasonable because today's data feeds provide significant incremental value in comparison to the data feeds that the Participants provided when they first set the access fees.

For example, the data feeds contain a vastly larger number of last sale prices and bids and offers. Since April 2006, the growth of quotes and trades per second has increased over 12,200 percent and 2500 percent, respectively. Additionally, the growth in Exchange Traded Products (''ETPs'') has contributed to a significant increase in Network B activity. For example, in April 2013, Network B listed 1,362 ETPs, which accounted for 93 percent of volume. The data feeds also contain far more information beyond prices and quotes, such as the national best bid and offer (''NBBO''), short sale restriction indications, circuit breaker tabs, retail price improvement indications, and, since April 2013, limit up/limit down information. In addition to the vast increase in content, there has been significant improvement in the latency of the data feeds.

Further, data feeds have become more valuable, as recipients now use them to perform a far larger array of non-display functions. Some firms even base their business models on the incorporation of data feeds into black boxes and application programming interfaces that apply trading algorithms to the data, but that do not require widespread data access by the firm's employees. As a result, these firms pay little for data usage beyond access fees, yet their data access and usage is critical to their businesses.

The Participants estimate the revenues resulting from the revised access fees would increase total Network A and Network B revenues by six percent, but this increase would be largely offset by an estimated five

percent decrease in total revenues resulting from the revised professional subscriber device fees and an estimated two percent decrease resulting from the revised quote usage fees. The majority of customers taking data feeds would also benefit from lower professional subscriber fees and/or lower quote-usage fees.

CTA and CQ data feeds include a full consolidated data set of last sale and quotation information across all Participants, including FINRA's Trade Reporting Facilities (''TRFs''). In contrast, the data feeds found in the proprietary data products of individual exchanges contain a far more limited set of data. Of the firms that are charged an access fee for consolidated data, 86 percent take the cheaper data feed through indirect access. The following chart compares access fees for the receipt of last sale information and quotation information:

Proposed CTA Network A:
Direct Access: $3,000
Indirect Access: $2,000
Proposed CQ Network B:
Direct Access: $2,000
Indirect Access: $1,000
NYSE: $5,000
Nasdaq: $2,000
Nasdaq BX: $1,000
Nasdaq PSX: $1,000
NYSE Arca: $750
EDGA: $500
EDGX: $500

e. Data Redistribution Charges

The Participants propose to establish a new monthly charge of $1,000 for the redistribution of Network A last sale price information and/or Network A quotation information and a similar $1,000 monthly charge for the redistribution of Network B last sale price information and/or Network B quotation information. This will not necessitate any additional reporting obligations.

The redistribution charges would apply to any entity that makes last sale information or quotation information available to any other entity or to any person other than its own employees, irrespective of the means of transmission or access. That is, all firms that redistribute market data outside of their organization would be required to pay the redistribution fee. The fee would not apply to a firm whose receipt, use and distribution of market data is limited to its own employees in a controlled environment.

The proposed redistribution charge harmonizes CTA/CQ fees with OPRA Plan fees, which impose a redistribution charge on every vendor that redistributes OPRA data to any person. OPRA's redistribution fee is $1,500 per month (or $650 for an internet-only service). Redistribution fees are also common for exchange proprietary data products.

Revenues from the redistribution charge along with the access fees would help to offset anticipated decreases in revenues resulting from the proposed changes to the professional subscriber device fees.

In its comment letter, Trade Alerts wrote that it is a small financial technology company that vends proprietary trading systems that allow individuals to trade securities, that its clients include the largest Wall Street broker-dealers and active retail investors, and that the new redistribution fee would substantially increase its monthly market data costs. It also notes that the redistribution fee favors large vendors because the fee is the same amount for all redistributors.

Market data redistributors like Trade Alerts, however, base their business models on procuring data from exchanges and turning around and redistributing that data to their customers and subscribers. The costs that redistributors incur for acquiring their inventory (*i.e.,* CTA/CQ market data) are very low, sometimes amounting only to their payment of access fees. Some vendors convert this low-cost inventory into large profits, charging fees for the Participants' market data that are not subject to regulation. The proposed redistribution charges would require them to contribute somewhat more, relative to the end-user community. Regarding Trade Alerts suggestion that the redistribution fee should provide a discount for smaller redistributors, we are not aware of any market or NMS Plan that provides a discount based on the size of the redistributor. We believe that the redistribution fee is consistent with a fair and equitable allocation of charges among industry participants.

f. Television Broadcast Charges

The Participants do not propose to make any changes to current television broadcast charges. In the case of Network A, the Participants do not propose to change the maximum amount payable for television broadcasts. However, the Plans provide for an annual increase to that maximum amount. The Network A Participants in some years have elected not to apply the annual increase. The Network A Participants propose to codify the practice of voting to waive a calendar year's maximum increase by adding footnote language to that effect.

g. Multiple Data Feed Charges

The Participants propose to establish a new monthly fee for firms that take more than one primary data feed and one backup data feed. (This will not necessitate any additional reporting obligations.) The fee would be as follows:

$50 for Network A last sale information data feeds
$50 for Network A quotation information data feeds
$50 for Network B last sale information data feeds
$50 for Network B quotation information data feeds

For both last sale and bid-ask data feeds, this charge would apply to each data feed that a data recipient receives in excess of the data recipient's receipt of one primary data feed and one backup data feed.

To date, the Participants have not required data recipients that receive multiple data feeds to pay any more than data recipients that receive one primary and one back up data feed. The Participants believe that it is appropriate to have them do so. The fee would encourage firms to better manage their requests for additional data feeds and to monitor their usage of data feeds. Participants note that the OPRA Plan imposes a charge of $100 per connection for circuit connections in addition to the primary and backup connections.

h. Late/Clearly Erroneous Reporting Charges

The Participants propose to establish a new monthly fee for firms that fail to comply with their reporting obligations in a timely manner. The charge is $2500 for each network. The charge would not be assessed until a firm fails to report its data usage and entitlements for more than three months. A report is not considered to have been provided if the report is clearly incomplete or inaccurate, such as a report that fails to report all data products or a report for which the reporting party did not make a good faith effort to assure the accuracy of data usage and entitlements.

The late reporting charges would be assessed for each month in which there is a failure to provide a network's required data-usage report, commencing with reporting failures lasting more than three months from the date on which the report is first due. By way of example, if a network's data-usage report is due on May 31, the charge would commence to apply as of September 1 and would appear on the market data invoice for September. The network administrator would assess the charge as of September 1, and would

continue to assess the charge each month until the network administrator receives the firm's complete and accurate data-usage report.

In the Participants' experience, some data recipients fail to report data-usage activity in a timely or compliant manner. This leads to administrative burdens and late payments. The purpose of the charges is to provide incentives to delinquent firms to report properly and to place them on a level playing field with compliant firms.

i. Network B Ticker Charge

As part of the process of simplifying the fee structure, the Participants have determined to eliminate the Network B ticker charge. This would harmonize Network B rates with those of Network A (which phased out its ticker charge many years ago), and with the Nasdaq/UTP Plan and the OPRA Plan, neither of which imposes a ticker charge.

3. Changes to the Form of the CTA/CQ Fee Schedule

The amendments propose to simplify, consolidate, and update the market data fee schedules under both Plans to arrive at a single, consolidated CTA/CQ Fee Schedule that sets forth the applicable charges from time to time in effect under both Plans. The Participants propose to set forth the CTA/CQ Fee Schedule in Exhibit E to the CTA Plan. It would replace the eight CTA/CQ fee schedules currently in effect: Schedules A–1 through A–4 of Exhibit E to the CTA Plan and Schedules A–1 through A–4 of Exhibit E to the CQ Plan. As a result, Exhibit E to the CTA Plan would contain the entire CTA/CQ Fee Schedule and Exhibit E to the CQ Plan would be eliminated.

The simplifications and updates that the consolidated CTA/CQ Fee Schedule proposes include the following:

- Adopting changes that make fee-disclosure more transparent, such as the addition of descriptions of what constitutes internal and external distribution;
- removing the Network B communications facilities and line splitter charges, which no longer apply;
- removing outdated footnotes that no longer apply;
- posting the amounts of the broker/dealer enterprise charge and the maximum television broadcast charge on the CTA Web site (although the amounts would also remain on the CTA/CQ Fee Schedule);
- granting the Participants the authority to waive the annual increase for any calendar year for the Network A and Network B broker-dealer enterprise charges and the Network A maximum television broadcast charge; and
- changing references to the ''high speed line'' to read ''output feed.''

4. Impact of the Proposed Fee Changes

As with any reorganization of a fee schedule, these changes may result in some data recipients paying higher total market data fees and in others paying lower total market data fees. On balance, the Participants estimate that the fee changes could increase the market data revenue pool for Network A and Network B by no more than 1.7 percent (or roughly $390,000 per month),[17] assuming no diminution of customer usage. Several customer usage trends, however, have declined year-over-year since 2008, particularly declines in professional subscribers. (More information on these declines can be found in the Participants' *Consolidated Data Quarterly Operating Metrics Reports.* Those reports can be found at *http://www.nyxdata.com/CTA*). The declines in professional subscribers has resulted from a challenging financial environment, corporate downsizing and competition from lower-cost proprietary data product offerings.

As a result, revenues generated under the Plans have declined significantly. Furthermore, the rise in off-exchange trading has meant that a smaller portion of those revenues are allocated to exchanges. Since 2008, CTA/UTP market data revenue has declined 21 percent from approximately $483 million in 2008 to $382 million annualized through March of 2013, of which about $321 million was allocated to exchanges and $61 million to FINRA. The significant portion of consolidated revenue allocated to FINRA ($61 million) reflects the growing share of off-exchange trading by brokers, which is largely rebated back to broker-dealers and significantly reduces the consolidated market data revenue allocated to exchanges. For these reasons, and despite a contrary assertion in the STANY Letter, the Participants believe that the Fee Changes would not result in a material increase in overall revenues under the Plans.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

Pursuant to Rule 608(b)(3)(i) under Regulation NMS, the Participants have designated the June Fee Simplification Amendments as establishing or changing fees and submitted the June Fee Simplification Amendments for immediate effectiveness. The Participants anticipate implementing the proposed fee changes on September 1, 2013, after giving notice to data recipients and end users of the Fee Changes.

The STANY Letter comments that the March Fee Simplification Amendments ''contemplate significant structural changes in the method of calculation of fees which we believe necessitates a notice and comment period longer than the 21 days provided.'' [18] It also states that the Fee Changes ''require that the Amendments be refiled in accordance with paragraph (a)(1) of Rule 608 and reviewed in accordance with paragraph (b)(2) of Rule 608.''

First, Commission practice does not preclude the submission of comment letters after the 21 day period. The **Federal Register** notice in the March Fee Simplification Amendments provides that comments ''should be provided on or before'' the date 21 days following publication in the **Federal Register**. [*emphasis added.*] Regulation NMS Rule 608(b)(i) provides that ''The Commission . . . shall provide interested persons an opportunity to submit written comments.'' Nowhere does it specify that the comment period must be 21 days from the date of publication.

In practice, the Commission accepts comments received after the 21 day deadline. In this case, The Participants notified the industry of the Fee Changes on February 22, 2013 and first filed the Fee Changes on March 11. It appeared in the **Federal Register** on March 25. The Participants submitted the filing that reversed the Fee Changes on May 10, 2013 and that filing appeared in the **Federal Register** on May 22, 2013. As a result, as a practical matter, commenters had two months to submit comments.

Second, Rule 608(b)(3)(i) of Regulation NMS permits the Participants to designate a proposed plan amendment as establishing or changing fees and other charges, and to place such an amendment into effect upon filing with the Commission. As mentioned above, the Participants have made that designation. The rule does not put any limitations on which particular fee changes qualify for immediate effectiveness. Rather, if the Commission believes that a longer comment period is appropriate for a particular filing, it may extend the comment period or abrogate the filing.

[17] The estimate of 1.7 percent is based on March 2013 data reports. This is a downward revision to the estimate set forth in the March Fee Simplification Amendments, which was based on February 2012 data.

[18] *See* STANY Letter at 2.

Third, ample precedents exist for the filing of multiple or even complex fee changes to the CTA and CQ Plans on an immediately effective basis over the past thirty years.[19]

Finally, the Fee Changes respond to appeals for the changes from industry representatives on the Advisory Committee. The sooner those changes become effective, the sooner the industry may enjoy the benefits they offer. As a result, the Participants believe that immediate effectiveness is warranted.

The STANY Letter also comments that firms need more notice of the Fee Changes than the Participants provided under the March Fee Simplification Amendments in order to make the systems changes necessary to implement the changes. Aside from the fact that each STANY member agreed in its market data contract with the Participants that 30 days' notice of fee changes would be sufficient, this objection has become irrelevant because the industry first learned of the Fee Changes on February 22, 2013, and the changes will not become effective until September 1. Additionally, because CTA uses a direct bill model, the CTA network administrators, rather than CTA's customers, do the majority of work needed to implement any fee changes. Therefore, it is unlikely that vendors and end users will need more time to change their data administration systems to accommodate the Fee Changes.

D. Development and Implementation Phases

See Item I(C) above.

E. Analysis of Impact on Competition

The proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed fee changes directly respond to the suggestions and requests of industry representatives and reflect the Participants' own views that it is appropriate to establish a simplified pricing structure that is consistent with current technology, that reduces administrative burdens and that promotes the use of real-time market data.

The Participants have not significantly revised the CTA and CQ market data fee schedules in many years. They adopted the 14-tier Network A professional subscriber rate structure in 1986 and that structure has changed very little ever since. Numerous technological advances, the advent of trading algorithms and automated trading, different investment patterns, a plethora of new securities products, unprecedented levels of trading, decimalization, internationalization and developments in portfolio analysis and securities research warrant this revision.

In general, the proposed fee changes would cause Network A fees to sync more closely with Network B fees and would cause Network A and Network B fees to sync more closely with fees payable under the Nasdaq/UTP Plan and the OPRA Plan. The proposed fees would compare favorably with the fees payable under those other Plans and with the fees charged for their market data by the largest stock exchanges around the world.

As a result, the Fee Changes promote consistency in price structures among the national market system plans, as well as consistency with the preponderance of other market data providers. This would make market data fees easier to administer. It would enable data recipients to compare their charges under the respective national market system plans more easily. It also would make for a more straightforward and streamlined administrative process for market data users, as the reporting rules and fee arrangements under the national market system plans become more homogenous.

In the Participants' view, the proposed fee schedule would allow each category of data recipient and data user to contribute an appropriate amount for their receipt and use of market data under the Plans. The proposed fee schedule would provide for an equitable allocation of dues, fees, and other charges among broker-dealers, vendors, end users and others receiving and using market data made available under the Plans by recalibrating the fees to more closely correspond to the different benefits different categories of users derive from their different uses of the market data made available under the Plans.

The STANY Letter comments that the continuing decline in trading volume makes increases in data fees inappropriate and that the increases are part of a growing trend of increasing market data costs without any corresponding business benefit or correlation to the rising operational cost of delivering services. STANY ignores that the vast majority of its members will pay lower market data fees, that its members have repeatedly received business benefits as the Participants have added more and more types of information to the data feeds and as the quantity of quotes and prices has grown, and that ''the rising operational cost of delivering services'' applies to the Participants as well as to STANY members.

The STANY Letter also characterizes the Fee Changes as amounting to significant increases in amounts payable by larger firms. However, STANY's comment ignores the context in which the Fee Changes are being introduced. Under the current 14-tier Network A rate structure, the biggest firms pay $18.75 per device per month while the one-device investor pays 127.25. The Fee Changes reduce that differential by charging the big firms $20 and charging the one-device investor $50. The Participants predict that the Fee Changes would allow more than 16,000 firms to pay less for Network A data than they do now, with most firms paying saving up to $500 per month. The Participants predict that fewer than 1,400 firms would pay more for Network A data, with most firms' cost increases amounting to less than $500 per month. The Participants also predict that the Fee Changes would cause more than 12,500 firms to pay less for Network B data, with most firms saving up to $500 per month. The Participants predict that approximately 1,000 firms would pay more for Network B data, with most firms' cost increases amounting to less than $500 per month.

The STANY Letter also asserts that the Fee Changes may drive some small firms out of business. As an initial matter, that professed concern is speculative: STANY provides no data to suggest that any changes effected by the Fee Changes would have such a significant effect on any particular firm that they would drive that firm out of business. Nor is there any realistic basis to engage in such speculation, because of the undisputed fact that there would be a significant reduction in rates for professional device fees for firms with 29 or fewer devices.

The Participants propose to apply the revised fee schedule uniformly to all constituents (including members of the Participant markets and non-members). The Participants do not believe that the

[19] *See, e.g.,* Fifth Charges Amendment to the First Restatement of the CTA Plan, File No. S7–433, Release No. 34–19342, 47 Fed Reg 57369–03 (December, 23, 1982); Fourteenth Charges Amendment to the First Restatement of the CTA Plan and Fifth Charges Amendment to the original CQ Plan, File No. S7–30–91, Release No. 34–29863, 56 Fed Reg 56429–01 (November 4, 1991); Second Charges Amendment to the CTA Plan and First Charges Amendment to the CQ Plan, SR–CTA/CQ–97–2, Release No. 34–39235, 62 Fed Reg 54886–01 (October 14, 1997); OPRA Plan amendment SR–OPRA–2004–01, Release No. 34–49382, 69 Fed Reg 12377–01 (March 16, 2004); OPRA Plan amendment SR–OPRA–2007–04, Release No. 34–56950, 72 Fed Reg 71722–01 (December 18, 2007); OPRA Plan amendment SR–OPRA–2012–02, Release No. 34–66564, 77 Fed Reg 15833–01 (March 16, 2012).

proposed fee changes introduce terms that are unreasonably discriminatory.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance With Plan

In accordance with Section XII(b)(iii) of the CTA Plan and Section IX(b)(iii) of the CQ Plan, each of the Participants has approved the Fee Changes.

H. Description of Operation of Facility Contemplated by the Proposed Amendments

Not applicable.

I. Terms and Conditions of Access

See Item I(A) above.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

1. In General

The Participants took a number of factors into account in deciding to propose the amendments.

To begin, the Participants' market data staffs communicate on an on-going basis with all sectors of their constituencies and assess and analyze the different broker/dealer and investor business models. They have expertise in the information needs of the Participants' constituents and used their experience and judgment to form recommendations regarding the Fee Changes, vetted those recommendations with constituents and revised those recommendations based on the vetting process.

Most significantly, the Participants listened to the recommendations of their Advisory Committee. The CTA and CQ Plans require the Advisory Committee to include, at a minimum, a broker-dealer with a substantial retail investor customer base, a broker-dealer with a substantial institutional investor customer base, an alternative trading system, a data vendor, and an investor.

Advisory Committee members attend and participate in meetings of the Participants and receive meeting materials. Members of the Advisory Committee gave valuable input that the Participants used in crafting the proposed fee changes. At several meetings of CTA and the CQ Plan's Operating Committee, Advisory Committee members voiced strong support for the Fee Changes.

In reassessing and rebalancing market data fees as proposed in the amendments, the Participants took a number of factors into account in addition to the views of its constituents, including:

(A) crafting fee changes that will not have a significant impact on total revenues generated under the Plans;

(B) setting fees that compare favorably with fees that the biggest exchanges around the globe and the Nasdaq/UTP Plan and the OPRA Plan charge for similar services;

(C) setting fees that allow each category of market data recipient and user to contribute market data revenues that the Participants believe is appropriate for that category;

(D) crafting fee changes that appropriately differentiate between constituents in today's environment (*e.g.,* large firms vs. small firms; redistributors vs. end users);

(E) crafting fees that reduce the administrative burdens of data recipients; and

(F) crafting a fee schedule that is easy to read and use and minimizes administrative burdens.

2. An Overview of the Fairness and Reasonableness of Market Data Fees and Revenues Under the Plans

a. The Fee Changes Will Have No Impact on Most Individual Investors

The vast majority of nonprofessional subscribers (*i.e.,* individual investors) receive market data from their brokers and vendors. Network A and Network B impose their nonprofessional subscriber fees on the brokers and vendors (rather than the investors) and set those fees so low that most brokers and vendors absorb the fees, meaning that the vast majority of individual investors do not pay for market data. The Fee Changes will thus have no impact on most individual investors.

b. The Fee Changes Respond to Customer Wishes

The Fee Changes are fair and reasonable because they offer a resolution to the call by industry participants for a simplified, updated fee schedule that reduces administrative burdens, a resolution that industry representatives on the Plans' Advisory Committee have warmly embraced. And, the Fee Changes do so in a manner that is approximately revenue neutral. Failure of the Fee Changes to take effect would be to the detriment of many data product customers.

c. Long-Term Trend of Rate Reduction

The existing constraints on fees for core market data under the Plans have generally succeeded in reducing market data rates over time. For example, when the effects of inflation are taken into account, the average monthly rate payable for a Network A professional subscriber device has consistently and dramatically fallen in real terms over the past 25 years. When inflation is taken into account, the average monthly cost of a Network A professional device was:

- $25.00 in 1987.
- $21.73 in 1990.
- $18.63 in 1995.
- $16.89 in 2000.
- $14.54 in 2005.
- $13.02 in 2010.
- $12.37 in 2013.

Also of interest is that NYSE charged approximately $25 per month for the NYSE ticker service in the 1880's.

d. Explosion of Data

Although the device fees have fallen after taking inflation into account, the amount of data message traffic that data users receive by subscribing has skyrocketed, as has the speed at which the data is transmitted.

i. New Data Added to Consolidated Feeds

The Participants have continually enhanced the consolidated feeds. The enhancements provide significant value. They are critical to the industry in that they permit data users to do such things as view new markets and implement new regulation. Below is a list of the more significant recent enhancements, including the addition of new Participants, new indicators, new sales conditions, new reason codes and dedicated test symbols.

CTS/CQS New/Reactivated Participants:

- NASDAQ OMX—Reactivation February 2007
- BATS—Activation April 2008
- NASDAQ OMX BX (formerly the Boston Stock Exchange)—Reactivation January 2009
- BATS Y—Activation October 2010
- Direct Edge A—Activation July 2010
- Direct Edge X—Activation July 2010
- NASDAQ OMX PSX (formerly the Philadelphia Stock Exchange)—Reactivation October 2010

CTS/CQS New Indicators:

- New CTS/CQS indicator to identify Primary Listing Market—January 2007
- New CTS Trade-Through Exempt indicator—January 2007
- New CTS/CQS Trade Reporting Facility indicator—February 2007
- New CTS Negative Index Value indicator—September 2007
- New CTS Consolidated High/Low/Last Price indicator 'H'—High/Low—July 2007
- New CTS Participant Open/High/Low/Last Price Indicator codes—July 2007

- ‘L’—Open/Last
- ‘M’—Open/High/Low
- ‘N’—Open/High/Last
- ‘O’—Open/Low/Last
- ‘P’—High/Low
- ‘Q’—High/Low/Last

- New CTS/CQS Short Sale restriction indicator—February 2011
- New CQS SIP-generated message identifier indicator—February 2013 (denote that CQS was the originator of the Quote message, *e.g.,* republished quotes, closing quote, price bands)
- New CTS/CQS Limit Up/Limit Down indicator fields and codes—February 2013 (Dedicated Test Symbols), April 2013 (Phase I production symbol rollout commencement). The processor calculates and distributes the Limit Up/Limit Down price bands.
- New CQS ‘‘Retail Interest Indicator’’ field—March 2012
- New CTS/CQS ‘‘Market-Wide Circuit Breaker’’ messages—April 2013

CTS Sale Conditions:

- New CTS Sale Condition ‘V’—Stock-Option Trade indicator—January 2008
- New CTS Sale Condition ‘4’—Derivatively Priced Trade indicator—April 2008
- New CTS Sale Condition ‘O’—Market Center Opening Trade—September 2007
- New CTS Sale Condition ‘Q’—Market Center Official Open Trade—September 2007
- New CTS Sale Condition ‘M’—Market Center Official Close Trade—September 2007
- Redefined CTS Sale Condition ‘H’ from Intraday Trade Detail to Price Variation Trade—September 2007
- New CTS Sale Condition ‘X’—Cross Trade—September 2007
- Redefined CTS Sale Condition ‘I’—Odd Lot Trade—scheduled for implementation in August 2013
- New CTS Sale Condition ‘9’—Official Consolidated Last as per Listing Market—scheduled for implementation in August 2013

Regulatory/Non-Regulatory Halts Reasons:

- ‘‘Non-Regulatory’’ Trading Halt Reasons
- CTS/CQS indicator ‘Y’ to denote ‘Sub-Penny Trading’—August 2007
- ‘‘Regulatory’’ Trading Halt Reasons
- CTS/CQS indicator ‘M’ to denote ‘Volatility Trading Pause’—June 2010

Other:

- CTS/CQS Dedicated ‘‘Test’’ symbols—October 2010

ii. Significant Improvements in Latency

The Participants have made numerous investments to improve system speed and capacity, investments that are often overlooked by the industry. The Participants regularly monitor and review the performance of their securities information processor (‘‘SIP’’) and make performance statistics available publicly on a quarterly basis. They make investments to upgrade technology, upgrades that enable the SIP to collect and disseminate the data ever more quickly, even as the number of quotes and trades continues to rise. The Participants will make future investments to handle the expected continued rise in message traffic, and at even faster data dissemination speeds.

The information below shows that customers are getting the quote and trade data feeds faster, as the latency of consolidated tape quote and trade feeds has improved significantly in recent years. Average quote feed latency declined from 800 milliseconds at the end of 2006 to 0.6 milliseconds in April 2013 and average trade feed latency declined from about one second at the end of 2006 to 0.4 milliseconds in April 2013, as shown below. Latency is measured from the time a message received from a Participant is time-stamped by the system, to the time that processing the message is completed.

Average Quote Latency for Network A/B:

- About 800 milliseconds at the end of 2006.
- About 20 milliseconds at the end of 2008.
- About 2.5 milliseconds at the end of 2010.
- Under 1 millisecond at the end of 2011.
- Under 1 millisecond at the end of 2012.
- About 0.6 millisecond in April 2013.

Average Trade Latency for Network A/B:

- About 1 second at the end of 2006.
- About 50 milliseconds at the end of 2008.
- About 2.7 milliseconds at the end of 2010.
- Under 1 millisecond at the end of 2011.
- Under 1 millisecond at the end of 2012.
- About 0.4 millisecond in April 2013.

iii. Significant Improvements in System Throughput, Measured by Messages Per Second

Investments in hardware and software have increased processing power and enabled the systems to handle increasing throughput levels. This is measured by peak capacity messages per second and is monitored by looking at actual peak messages per second. SIP throughput continues to increase in order to push out the increasing amounts of real-time quote and trade data.

Given the constant rise in peak messages, the SIP significantly increased system capacity. As shown below, the system could handle peak quotes per second of 11,250 in 2006 and 2.5 million in 2012, an increase of more than 20,000 percent. The Participants have a target of handling 3 million peak quotes per second by October 2013.

The capacity for trades per second increased from 2,500 in 2006 to 500,000 in 2012, an increase of more than 20,000 percent. The Participants have a target of handling 600,000 trades per second by October 2013.[20]

Supported Quotes per Second Capacity for Network A/B:

- 11,250 in 2006.
- 120,000 in 2008.
- 500,000 in 2010.
- 1,500,000 in 2011.
- 2,500,000 in 2012.
- 2013 Capacity Targets: 2,750,000 in July, 3,000,000 in October.

Actual Peak Quotes per Second for Network A/B:

- 8,673 in 2006.
- 88,249 in 2008.
- 308,705 in 2010.
- 580,870 in 2011.
- 567,321 in 2012.
- 574,891 year-to-date through April 2013.

Supported Trades per Second Capacity:

- 2,500 in 2006.
- 20,000 in 2008.
- 100,000 in 2010.
- 300,000 in 2011.
- 500,000 in 2012.
- 2013 Capacity Targets: 550,000 in July, 600,000 in October.

Actual Peak Trades per Second for Network A/B:

- 2,240 in 2006.
- 15,058 in 2008.
- 49,570 in 2010.
- 77,841 in 2011.
- 80,747 in 2012.
- 67,660 year-to-date through April 2013.

e. Vendor Fees

Fees imposed by data vendors, whom the Commission does not regulate, account for a vast majority of the global market data fees incurred by the financial industry, according to Burton Taylor Associates and a research study by Atradia. In addition to charging

[20] To better manage the rise in message traffic, the Participants anticipate that capacity planning will move from measuring messages per second to measuring messages per millisecond.

monthly subscription fees for terminal use, market data vendors may apply significant administration mark-up fees on top of exchange market data fees. These mark-ups are not regulated and there is limited transparency into how the rates are applied. These mark-ups do not result in any additional revenues for the Participants; the vendors alone profit from them.

f. Declining Unit Purchase Costs for Customers

Despite consolidated tape investments in new data items, additional capacity demands and latency improvements, data users' unit purchase costs for trade and quote data has declined significantly, increasing the value of the data they receive from their subscriptions. The amount of quote and trade data messages has increased significantly while fees have remained unchanged, as shown below for the 2006 to 2012 timeframe.

i. Average Purchase Cost of Network A Quotes

The average number of quotes per day increased over 580 percent during this timeframe, rising from 44.2 million in 2006 to 301.8 million in 2012. As a result, the average unit purchase cost of a quote for a customer incurring a monthly Network A indirect access fee of $700 declined approximately 85 percent during this period, falling from $0.000000754 in 2006 to $0.000000110 in 2012.

ii. Average Purchase Cost of Network B Quotes

The average number of quotes per day increased over 2100 percent, rising from 7.0 million in 2006 to 155.8 million in 2012. As a result, the average unit purchase cost of a trade for a customer incurring a monthly Network A indirect access fee of $250 declined an estimated 96 percent during this period, falling from $0.000001700 in 2006 to $0.000000076 in 2012.

iii. Average Purchase Cost of Network A Trades

The average number of trades per day increased over 80 percent, rising from 8.1 million in 2006 to 14.7 million in 2012. As a result, the average unit purchase cost of a quote for a customer incurring a monthly Network B indirect access fee of $500 declined an estimated 45 percent during this period, falling from $0.000002939 in 2006 to $0.000001619 in 2012.

iv. Average Purchase Cost of Network B Trades

The average number of trades per day increased 290 percent, rising from 659,337 in 2006 to 2.57 million in 2012. As a result, the average unit purchase cost of a trade for a customer incurring a monthly Network B indirect access fee of $200 declined an estimated 74 percent during this period, falling from $0.000014444 in 2006 to $0.000003705 in 2012.

3. Increase in Costs

The direct costs that the Plans incur for the services of the securities information processor and network administrators to process the data and administer the networks, as well as the cumulative total of the indirect costs that each Participant incurs in producing and collecting its data, have increased substantially since the Participants last restructured their fees in 1986.

Since 1987, the first full year for which the current 14-tier fee structure was in effect, the direct costs of the securities information processor and the network administrators have increased 89 percent, or 2.48 percent per year when compounded on an annual basis. When taken over 25 years, this annual increase in direct costs easily exceeds the 1.7 percent increase in revenues that the Participants estimate the Fee Changes will produce (exclusive of decreased customer usage as a result of the Fee Changes), both as a percentage and as a dollar amount.

With respect to indirect costs, the Commission has previously noted that ''any attempt to calculate the precise cost of market information presents severe practical difficulties.'' [21] In commenting on the 1999 Concept Release, NYSE summarized many of the ''severe practical difficulties'' attendant to each Participant's calculation of its data production and collection costs and we incorporate that discussion here.[22] In 1987, the indirect costs of the Participants would have included the data production and collection costs of seven national securities exchanges [23] and one national securities association.[24] In 2013, that calculation would have to include the data production and collection costs of the 15 Participants, including 14 national securities exchanges and the Alternative Display Facility and two Trade Reporting Facilities that FINRA, the lone national securities association, maintains.

4. Adequate Constraints on Fees

Constituent boards, customer control and regulatory mechanisms constrain fees for core market data now just as they have since Congress established the fair-and-reasonable standard in 1975.

With respect to Network A and Network B, NYSE typically takes the lead on pricing proposals, vetting new proposals with the other Participants, various users, and trade and industry groups, and making modifications which improve or reevaluate the original concept. Proposals are then taken to each Participant for approval. But there are significant market data user and regulatory constraints on NYSE's ability to simply impose price changes.

The governing body of each Participant consists of representatives of constituent firms and a large quotient of independent directors. The Participants' constituent board members have the ultimate say on whether CTA and the CQ Plan Operating Committee should submit fee proposals to the Commission and whether the costs of operating the markets and the costs of the market data function are fairly allocated among market data users. That is, the users of market data and non-industry representatives who sit on Participant boards get to determine whether to support market data fee proposals. They also get to determine how the various types of data users should pay their fair share and they make decisions about funding technical infrastructure investments needed to receive, process and safe-store the orders, quotations and trade reports that give rise to the data. This cost allocation by consensus is buttressed by Commission review and is superior to cost-based rate-making.

Constituent Board members are the Participants' market data customers. When a critical mass of them voices a point of view, they can direct the Participants how to act. This is exactly what motivated the Participants to propose the Fee Changes.

The Commission's process, including public comment as appropriate and when permitted by the statutory language, then acts as an additional constraint on pricing. This, in turn, is

[21] *See* SEC 1999 Concept Release on ''Regulation of Market Information Fees and Revenues'' (the ''1999 Concept Release'') located at *http://www.sec.gov/rules/concept/34–42208.htm.*

[22] *See* footnote 11 of letter from James E. Buck, Senior Vice President and Secretary, NYSE, April 10, 2000, located at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

[23] American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.

[24] National Association of Securities Dealers, Inc.

buttressed by the Commission rules that provide procedures for data recipients to seek redress of their grievances if he or she believes his or her access to data has been limited.

Also, developments in technology make possible another important constraint on market data prices for core data: There is nothing to prevent one or more vendors, broker-dealers or other entities from gathering prices and quotes across all Participants and creating a consolidated data stream that would compete with the Plans' data streams. The technology to consolidate multiple, disparate data streams is readily available, and other markets have already begun introducing products that compete with core data (such as Nasdaq Basic).[25]

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a) (Solely in Its Application to the Amendments to the CTA Plan)

A. Equity Securities for Which Transaction Reports Shall Be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

See Item I(A).

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendments are 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–CTA/CQ–2013–04 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–CTA/CQ–2013–04. 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 Amendments that are filed with the Commission, and all written communications relating to the Amendments 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 Amendments also will be available for inspection and copying at the principal office of the CTA.

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–CTA/CQ–2013–04 and should be submitted on or before August 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–17860 Filed 7–24–13; 8:45 am]

BILLING CODE 8011–01–P

[25] In a context in which a trading or order-routing decision can be implemented, Regulation NMS Rule 603(c)(1) prevents a broker, dealer or securities information processor from providing a display of market data unless it also provides a consolidated display, such as the consolidated displays made available under the Plans. Yet, despite this rule, the Participants have seen reductions of customer activity at the same time that competing non-consolidated products have seen increases.

[26] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70011; File No. SR–CBOE–2013–074]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to CBSX Rule 53.2

July 19, 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 July 19, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Stock Exchange, LLC (''CBSX'') Rule 53.2, which relates to the prohibition against trading ahead of customer orders. The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Rule 53.2. Prohibition Against Trading Ahead of Customer Orders

No change.

* * * Interpretations and Policies:

.01—No change.

.02 No-Knowledge Exception. With respect to NMS stocks, as defined in Rule 600 of SEC Regulation NMS, if a Trading Permit Holder implements and utilizes an effective

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

system of internal controls, such as appropriate information barriers, that operate to prevent one trading unit from obtaining knowledge of customer orders held by a separate trading unit, those other trading units trading in a proprietary capacity may continue to trade at prices that would satisfy the customer orders held by the separate trading unit. A Trading Permit Holder that structures its order handling practices in NMS stocks to permit its proprietary and/or market-making desk to trade at prices that would satisfy customer orders held by a separate trading unit must disclose in writing to its customers, at account opening and annually thereafter, a description of the manner in which customer orders are handled by the Trading Permit Holder and the circumstances under which the Trading Permit Holder may trade proprietarily at its proprietary and/or market-making desk at prices that would satisfy the customer order. If a Trading Permit Holder intends to rely on this exception by implementing information barriers, those information barriers *should at a minimum* (i) [must]provide for the organizational separation of a Trading Permit Holder's customer order trading unit and proprietary trading unit; (ii) [must]ensure that one trading unit does not exert influence over the other trading unit; (iii) [must]ensure that information relating to each trading unit's stock positions[,] *and* trading activities[, and clearing and margin arrangements] is not improperly shared (except with persons in senior management who are involved in exercising general managerial oversight of one or both entities); (iv) [must require each trading unit to maintain separate books and records (and separate financial accounting); (v) must require each trading unit to separately meet all required capital requirements; (vi) must]ensure the confidentiality of the trading unit's book as provided by Exchange rules; and (v[ii]) [must]ensure that any other material, non-public information (e.g. information related to any business transactions between the trading unit and an issuer or any research reports or recommendations issued by the trading unit) is not made improperly available to the other trading unit in any manner that would allow that trading unit to take undue advantage of that information while trading on CBSX. A Trading Permit Holder must submit the proposed information barriers in writing to the Exchange upon request. *Trading Permit Holders must maintain records that indicate which orders rely on this exception and submit these records to the Exchange upon request.*

.03–.07 No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBSX Rule 53.2 governs the treatment of customer orders and prohibits a CBSX Trading Permit Holder from proprietarily trading ahead of a customer order. The Securities and Exchange Commission (the ''Commission'') recently approved a rule filing to, among other things, amend CBSX Rule 53.2.[3] The amendments to Rule 53.2 included, among other things, the addition of a number of exceptions to the customer order protection rule. One of the new exceptions is a ''no-knowledge'' exception, which allows a proprietary trading unit of a Trading Permit Holder organization to continue trading in a proprietary capacity and at prices that would satisfy customer orders that were being held by another, separate trading unit at the Trading Permit Holder organization.[4] In order to avail itself of the ''no-knowledge'' exception, a Trading Permit Holder organization must first implement and utilize an effective system of internal controls (such as appropriate information barriers) that operate to prevent the proprietary trading unit from obtaining knowledge of the customer orders that are held at a separate trading unit.[5]

If a Trading Permit Holder intends to rely on the ''no-knowledge'' exception by implementing information barriers, those information barriers must (i) Provide for the organization separation[6] of a Trading Permit Holder's trading unit that holds customer orders and a proprietary trading unit; (ii) ensure that one trading unit does not exert influence over the other trading unit; (iii) ensure that information relating to each trading unit's stock positions, trading activities, and clearing and margin arrangements is not improperly shared (except with person in senior management who are involved in exercising general managerial oversight of one or both entities); (iv) require each trading unit to maintain separate books and records (and separate financial accounting); (v) require each trading unit to separately meet all required capital requirements; (vi) ensure the confidentiality of each trading unit's book as provided by the Exchange rules; and (vii) ensure that any other material non-public information (e.g. information related to any business transactions between a trading unit and an issuer or any research reports or recommendations issued by the trading unit) is not made improperly available to the other trading unit in any manner that would allow that trading unit to take undue advantage of that information while trading on CBSX. A Trading Permit Holder must submit the proposed information barriers in writing to the Exchange upon request.

The Exchange proposes to amend the information barrier requirements of the ''no-knowledge'' exception as follows:

- Remove from requirement (iii) the need to ensure that information relating to each trading unit's clearing and margin arrangements is not improperly shared;
- eliminate information barrier requirements (iv) and (v); and
- renumber requirements (vi) and (vii) as (iv) and (v).

The Exchange believes the remaining information barrier requirements provide for the necessary protections in order for a Trading Permit Holder to avail itself of the ''no-knowledge'' exception.

The Exchange also proposes to amend the ''no-knowledge'' exception by providing that a Trading Permit Holder

[3] *See* Securities Exchange Act Release No. 34–69504 (May 2, 2013), 78 FR 26828 (May 8, 2013) (SR–CBOE–2013–027). Pursuant to that rule filing, the Exchange issued Regulatory Circular RG 13–098 on July 10, 2013, which announced that the amendments to Rule 53.2 would become effective on July 22, 2013.

[4] *See* Rule 53.2, Interpretation and Policy .03. The ''no-knowledge'' exception is applicable with respect to NMS stocks, as defined in Rule 600 of SEC Regulation NMS.

[5] The ''no-knowledge'' exception also provides that a Trading Permit Holder organization that structures its order handling practices in NMS stocks to permit its proprietary and/or market-making desk to trade at prices that would satisfy customer orders held as a separate trading unit must disclose in writing to its customers, at account opening and annually thereafter, a description of the manner in which customer orders are handled by the Trading Permit Holder and the circumstances under which the Trading Permit Holder may trade proprietarily at its market-making desk at prices that would satisfy the customer order.

[6] Organizational separation includes physical separation of the trading units.

relying on this exception should have information barriers that, at a minimum, satisfy the specified criteria. This change clarifies that Trading Permit Holders are able to include additional conditions in their information barriers as they deem appropriate.

Finally, the Exchange proposes to add a requirement that Trading Permit Holders must maintain records that indicate which orders rely on this ''no-knowledge'' exception and provide these records to the Exchange upon request. This change will ensure that a documented audit trail exists to indicate which orders are subject to this exception and that the Exchange will have access to records in connection with its surveillances associated with customer order protection.

The Exchange will implement the proposed changes on July 22, 2013, in conjunction with the previously approved amendments to CBSX Rule 53.2.[7]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will protect investors by bringing the information barriers that Trading Permit Holders must maintain to avail themselves of the ''no-knowledge'' exception more in line with other trading venues while at the same time ensuring sufficient customer order protection.[11] The Exchange also believes the proposed change to clarify that Trading Permit Holders should at a minimum satisfy the information barrier requirements, as amended, will provide Trading Permit Holders with the flexibility to include other conditions they believe are appropriate to ensure proper barriers are in place.[12] In general, the Exchange believes that harmonizing customer order protection rules across self-regulatory organizations and providing Trading Permit Holders with the flexibility to implement their barriers in a manner they deem appropriate will foster cooperation and contribute to perfecting the mechanism of a free and open market and national market system. In addition, the Exchange believes the additional requirement for Trading Permit Holders to maintain records that identify the orders that are associated with the reliance of the no-knowledge exception will further enhance the Exchange's ability to adequately surveil its Trading Permit Holders for compliance with the customer order protection rule. Overall, the Exchange believes that the customer order protection rule, as amended by the proposed rule change, will continue to maintain the necessary protection and priority of customer orders designed to prevent fraudulent and manipulative acts, without imposing any undue regulatory costs on industry participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. All Trading Permit Holders that rely on information barriers to take advantage of the ''no-knowledge'' exception will have to satisfy the same criteria. The Exchange believes the proposed rule change will reduce the burdens on market participants by eliminating certain requirements in the current rule with which they must comply to avail themselves of the ''no-knowledge'' exception. The Exchange also believes the proposed rule change will reduce the burdens on market participants that result from their having to comply with varying rules related to customer order protection, thus reducing the complexity of customer order protection rules, particularly for those firms subject to the rules of multiple trading venues. The Exchange believes the additional requirement to maintain records of orders that rely on the ''no-knowledge'' exception will not impose additional burdens on Trading Permit Holders, as it is consistent with audit trail and record retention requirements that are already imposed on market participants. Overall, the Exchange believes the proposed rule change further harmonizes customer order protection rules across self-regulatory organizations while sufficiently protecting customer orders, which ultimately benefits market participants and does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing.[15] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[16] The Exchange has requested that the Commission waive the 30-day operative delay because the Exchange believes the proposed rule change does not present

[7] *See supra* note 3.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *See, e.g.,* Financial Industry Regulatory Authority (FINRA) Rule 5320, ''Prohibition Against Trading Ahead of Customer Orders; and Chicago Stock Exchange (CHX) Article 9, Rule 17, ''Prohibition Against Trading Ahead of Customer Orders.''

[12] Since each Trading Permit Holder is somewhat unique in its structure and business model, such flexibility will provide each firm with the ability to tailor their barriers in a way that is consistent with their needs, so long as, at a minimum, they include the requirements as proposed in this filing.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *Id.*

any new, unique or substantive issues. The proposed rule change eliminates some requirements that Trading Permit Holders otherwise would have to satisfy to take advantage of the ''no-knowledge'' exception; however, the Exchange believes that the amended information barrier requirements bring the rule further in line with the customer protection rule requirements of other self-regulatory organizations. In addition, the Exchange believes the information barriers, as amended, will be sufficiently adequate to allow Trading Permit Holders to avail themselves of the ''no-knowledge'' exception. The Exchange also believes that the additional requirement to maintain records of orders that rely on the ''no-knowledge'' exception is consistent with requirements already imposed on market participants and thus will not impose any additional burdens on Trading Permit Holders.

The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule will harmonize the Exchange's customer order protection rules with the rules of other self-regulatory organizations,[17] and that the requirements that the Exchange's rules impose on Trading Permit Holders will continue to ensure that customer orders are afforded sufficient protection. Therefore, the Commission designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–074 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–074. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–074, and should be submitted on or before August 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–17862 Filed 7–24–13; 8:45 am]

BILLING CODE 8011–01–P

[17] *See* supra note 11.

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70009; File No. SR–FINRA–2013–029]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to the Dissemination of Transactions in TRACE-Eligible Securities That Are Effected Pursuant to Securities Act Rule 144A

July 19, 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 July 17, 2013, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend: (1) FINRA Rule 6750 and the Trade Reporting and Compliance Engine (''TRACE'') dissemination protocols regarding the dissemination of transactions in TRACE-Eligible Securities that are effected pursuant to Rule 144A[3] under the Securities Act of 1933[4] (''Rule 144A transactions''); (2) FINRA Rule 7730 to establish real-time and historic data sets for Rule 144A transaction data; and (3) FINRA Rule 7730 to clarify the definition of Historic TRACE Data, to clarify other provisions therein and incorporate other technical amendments.[5]

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA included statements concerning

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 230.144A.

[4] 15 U.S.C. 77a *et seq.* (hereinafter ''Securities Act'').

[5] The terms TRACE-Eligible Security and Historic TRACE Data are defined in FINRA Rule 6710(a) and FINRA Rule 7730(f)(4), respectively.

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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA proposes amendments to the FINRA rules and TRACE dissemination protocols to provide greater transparency in Rule 144A transactions.[6] FINRA proposes to amend FINRA Rule 6750 to provide for the dissemination of Rule 144A transactions, provided the asset type (*e.g.,* corporate bonds) currently is subject to dissemination under FINRA Rule 6750. FINRA also proposes to amend the dissemination protocols to extend the dissemination caps currently applicable to the non-Rule 144A transactions in such asset type (*e.g.,* non-Rule 144A corporate bond transactions) to Rule 144A transactions in such securities. In addition, FINRA proposes to amend FINRA Rule 7730 to establish a data set for real-time Rule 144A transaction data and a second data set for historic Rule 144A transaction data, to amend the definition of Historic TRACE Data to reference the three data sets currently included therein and the proposed fourth data set, and to make other clarifying and technical amendments.

Rule 144A Transactions

Securities Act Rule 144A[7] provides a safe harbor from the registration requirements of the Securities Act for the resale of unregistered securities to qualified institutional buyers (''QIBs'').[8] Rule 144A transactions, as defined herein, have been reported to FINRA since TRACE inception on July 1, 2002.[9] However, such Rule 144A transactions have not been subject to dissemination under FINRA Rule 6750(b)(1), in part to avoid concerns about public solicitation of 144A transactions. Such Rule 144A transactions were effected subject to a regulatory framework that included a long-standing prohibition against general solicitation in the offer and sale of securities sold in accordance with Securities Act Rule 144A.[10] However, because the TRACE rules currently do not provide for dissemination of transactions, price information is limited in Rule 144A transactions in TRACE-Eligible Securities. In the absence of such data, it is difficult for market participants to assess the quality of Rule 144A transaction executions or compare them to executions of similar publicly traded securities of the same issuer or similarly rated issuers.

Section 201 of the Jumpstart Our Business Startups Act (the ''JOBS Act'')[11] directed the SEC to eliminate the prohibition against general solicitation and general advertising in offerings of securities pursuant to Securities Act Rule 144A[12] and in certain other private placements. To implement Section 201(a)(2) of the JOBS Act, the SEC amended Securities Act Rule 144A(d)(1)[13] to provide that securities may be offered pursuant to Securities Act Rule 144A[14] to persons other than QIBs,[15] provided that the securities are sold only to persons that the seller and any person acting on behalf of the seller reasonably believe are QIBs.[16] FINRA believes that the proposed rule change regarding post-trade transparency in Rule 144A transactions is in harmony with the changes to Securities Act Rule 144A[17] recently approved by the SEC.[18]

In anticipation of the changes to Securities Act Rule 144A,[19] FINRA published *Regulatory Notice* 12–39 in September 2012 requesting comment on, among other things, whether Rule 144A transactions should be disseminated, and, if disseminated, whether such transactions should be subject to dissemination caps, whereby the actual size of a transaction over a certain par value is not displayed in disseminated TRACE transaction data.[20] As discussed below, FINRA received 12 comments addressing the dissemination of Rule 144A transactions. Nine commenters supported such dissemination and three commenters were opposed.[21]

Based on a review of the comments and the benefits of increased transparency in the U.S. debt markets observed in the past decade, FINRA proposes to disseminate information on Rule 144A transactions, except for transactions occurring in securities which, by asset type, currently are not required to be disseminated. Specifically, FINRA proposes to amend FINRA Rule 6750(a) to provide that FINRA will disseminate information on all transactions in TRACE-Eligible Securities, including transactions effected pursuant to Securities Act Rule 144A,[22] immediately upon receipt of the transaction report, except as provided in paragraph (b). The proposed amendment would eliminate the exception to dissemination for Rule

[6] The discussion in the proposed rule change to modify the FINRA Rule 6700 Series and Rule 7730 and in *Regulatory Notice* 12–39 (September 2012) (FINRA's request for comments regarding the dissemination of Rule 144A transactions) is limited to ''Rule 144A transactions'' as defined herein (*i.e.,* in securities that are TRACE-Eligible Securities that are effected pursuant to Securities Act Rule 144A (17 CFR 230.144A)). (*See also, infra,* note 20 and Item C below regarding *Regulatory Notice* 12–39 (September 2012).) Equity securities transactions effected pursuant to Securities Act Rule 144A (17 CFR 230.144A) are not reported to TRACE and are not the subject of this proposed rule change.

[7] 17 CFR 230.144A.

[8] Qualified institutional buyer is defined in Securities Act Rule 144A(a)(1). *See* 17 CFR 230.144A(a)(1).

[9] In 2012, 628 unique dealers reported 2,100 average daily Rule 144A corporate bond transactions, representing approximately $5 billion average daily par value traded. In comparison, 1,500 dealers reported 42,000 average daily corporate bond transactions (excluding Rule 144A corporate bond transactions), representing approximately $19 billion average daily par value traded.

The statistical information herein refers to Rule 144A transactions in TRACE-Eligible Securities that are referred to as ''corporate bonds''; this term generally refers to corporate bonds and also other types of securities (*e.g.,* equity-linked notes, bonds issued by religious organizations or for religious purposes (e.g., ''church bonds'')), but excludes Agency Debt Securities as defined in FINRA Rule 6710(l) and Asset-Backed Securities (''ABS'') as defined in FINRA Rule 6710(m). The statistical information is limited to corporate bond transactions because, at this time, corporate bonds are the only category of TRACE-Eligible Securities that would be affected by the proposed rule change. *See* note 24, *infra.*

[10] 17 CFR 230.144A.

[11] The JOBS Act was enacted on April 5, 2012; Public Law 112–106, 126 Stat. 306.

[12] 17 CFR 230.144A. Although the proposed rule change is limited to Rule 144A transactions in TRACE-Eligible Securities, which are debt securities, Securities Act Rule 144A (17 CFR 230.144A), and the SEC's amendments thereto, are not so limited.

[13] 17 CFR 230.144A(d)(1).

[14] 17 CFR 230.144A. *See* Securities Act Release No. 69959 (July 10, 2013) (Eliminating the Prohibition Against General Solicitation and General Advertising in Rule 506 and Rule 144A Offerings) (File No. S7–07–12).

[15] *See supra* note 8.

[16] *See supra* note 8.

[17] 17 CFR 230.144A.

[18] *See supra* note 14.

[19] 17 CFR 230.144A.

[20] In *Regulatory Notice* 12–39, FINRA also requested comment on whether access to Rule 144A transaction information, if disseminated, should be disseminated publicly without limitation or on a more limited basis, and, the impact, if any, that dissemination might have on pricing and investment decisions. FINRA also requested comment on existing dissemination caps for transactions in corporate bonds, Agency Debt Securities (as defined in FINRA Rule 6710(l)) and Asset-Backed Securities (''ABS'') (as defined in FINRA Rule 6710(m)). FINRA is not proposing to change any of the current dissemination caps at this time.

[21] *See* Item C below for the discussion of the comments concerning dissemination of Rule 144A transactions in response to *Regulatory Notice* 12–39.

[22] 17 CFR 230.144A.

144A transactions in FINRA Rule 6750(b), but retain the other exceptions (*i.e.,* under FINRA Rule 6750(b)(2) and FINRA Rule 6750(b)(3), respectively, certain transfers of proprietary securities positions and List or Fixed Offering Price Transactions and Takedown Transactions are not disseminated; and under FINRA Rule 6750(b)(4), including amendments that will become effective on July 22, 2013, Asset-Backed Securities transactions, other than transactions in Agency Pass-Through Mortgage-Backed Securities and SBA-Backed ABS, are not disseminated.) [23] Accordingly, under the proposed rule change, corporate bond transactions effected as Rule 144A transactions and reported to TRACE would be disseminated.[24]

FINRA believes that the proposed rule change to provide price transparency in Rule 144A transactions will, in the Securities Act Rule 144A [25] debt markets, enhance pre-trade price discovery, foster more competitive pricing, reduce costs to investors and assist market participants in determining the quality of their executions. In addition, transparency in this sector may improve the quality of the valuation of securities and derivative positions for publicly issued securities of the Securities Act Rule 144A [26] issuer and for similar securities.

Dissemination Caps

FINRA has established TRACE dissemination caps for TRACE data, such that the actual size of a transaction over a certain par value is not displayed in disseminated TRACE transaction data. For corporate bonds that are rated Investment Grade, the dissemination cap is $5 million (''$5MM'') and the size of transactions in excess of $5MM is displayed as ''$5MM+.'' For corporate bonds that are rated Non-Investment Grade, the dissemination cap is $1 million (''$1MM'') and the size of a transaction in excess of $1MM is displayed as ''$1MM+.'' [27] FINRA proposes that Rule 144A transactions be disseminated subject to the same dissemination caps that are currently in effect for a non-Rule 144A transaction in the applicable security (*e.g.,* a non-Rule 144A transaction in an Investment Grade corporate bond).[28]

Data

FINRA proposes to amend FINRA Rule 7730 to make available the real-time disseminated Rule 144A transaction data and the Historic TRACE Data for Rule 144A transactions. First, FINRA proposes to amend FINRA Rule 7730(c) to establish the Rule 144A transaction data set (''Rule 144A Data Set'') similar to the data sets for corporate bonds (''Corporate Bond Data Set''), Agency Debt Securities (''Agency Data Set'') and Asset-Backed Securities (''ABS Data Set''). The Rule 144A Data Set will consist of information disseminated immediately upon receipt of a transaction report for a Rule 144A transaction.

Second, FINRA proposes to amend FINRA Rule 7730(d) to establish a historic data set for Rule 144A transactions (''Historic Rule 144A Data Set'') similar to the data sets for corporate bonds (''Historic Corporate Bond Data Set''), Agency Debt Securities (''Historic Agency Data Set'') and Asset-Backed Securities (''Historic ABS Data Set'') referenced in the rule. The Historic Rule 144A Data Set would include Rule 144A transactions in securities subject to dissemination, effected as of or after July 1, 2002, and, among other things, would include uncapped volume information. However, like all other Historic TRACE Data, Rule 144A transaction data included in the Historic Rule 144A Data Set would be released subject to a delay of approximately 18 months from the date of the transaction.

FINRA also proposes to amend the definition of ''Historic TRACE Data'' in FINRA Rule 7730(f)(4) to reference the three existing data sets and the proposed Historic Rule 144A Data Set and make other clarifying and technical amendments. Specifically, the definition would be revised to clarify that the Historic Corporate Bond Data Set includes all historic transactions in corporate bonds reported to TRACE, except Rule 144A transactions in corporate bonds; the Historic Agency Data Set includes all historic transactions in Agency Debt Securities reported to TRACE; the Historic ABS Data Set includes all historic transactions in ABS reported to TRACE, if transactions in the type of ABS are subject to real-time dissemination under FINRA Rule 6750, but excludes historic Rule 144A transactions in ABS; and the Historic Rule 144A Data Set includes all historic Rule 144A transactions reported to TRACE, except transactions involving a type of TRACE-Eligible Security (*e.g.,* certain ABS) that is not subject to real-time dissemination under FINRA Rule 6750.

Finally, FINRA proposes the following additional, minor revisions to FINRA Rule 7730. In FINRA Rule 7730(d)(1)(A)(ii) and FINRA Rule 7730(d)(1)(B)(ii), FINRA proposes to clarify that the 2012 Historic ABS Data Set includes the 2011 Historic ABS Data Set. ABS began to be reported to TRACE in May 2011 and, accordingly, transactions from that time would be included in the Historic ABS Data Set. Proposed technical amendments to FINRA Rule 7730(c)(1), FINRA Rule 7730(c)(2) and the table preceding such provisions would clarify that the fees therein apply only to the Corporate Bond Data Set, Agency Data Set and ABS Data Set. Similarly, proposed technical amendments to FINRA Rule 7730(d)(1), FINRA Rule 7730(d)(2) and the preceding table would clarify that the fees therein apply only to the

[23] The terms ''List or Fixed Offering Price Transaction,'' ''Takedown Transaction'' ''Agency Pass-Through Mortgage-Backed Security,'' and ''SBA-Backed ABS'' are defined in FINRA Rule 6710(q), FINRA Rule 6710(r), FINRA Rule 6710(v), and FINRA Rule 6710(bb), respectively.

[24] The proposed rule change would affect disseminated information as follows: (1) Corporate bonds—all corporate bonds are subject to dissemination currently, and, as a result of the proposed rule change, all Rule 144A transactions in such securities would become subject to dissemination; (2) Agency Debt Securities and ABS currently disseminated or to be disseminated as of July 22, 2013 (*i.e.,* Agency Pass-Through Mortgage-Backed Securities traded To Be Announced (''TBA'') and in Specified Pool Transactions and SBA-Backed ABS traded TBA and in Specified Pool Transactions)—there would be no additional transactions disseminated as a result of the proposed rule change because Securities Act Rule 144A (17 CFR 230.144A) is not used to effect transactions in such securities; and (3) ABS not currently subject to dissemination—when, in the future, FINRA considers whether private-issuer ABS should be subject to dissemination, FINRA also would determine if Rule 144A transactions in such types of ABS would be disseminated.

The terms To Be Announced and Specified Pool Transaction are defined in FINRA Rule 6710(u) and FINRA Rule 6710(x), respectively.

[25] 17 CFR 230.144A.

[26] 17 CFR 230.144A.

[27] The dissemination cap for Investment Grade corporate bonds (excluding those sold in Rule 144A transactions) limits the display of actual size for approximately 2.1 percent of trades representing approximately 51.7 percent of total par value traded. The dissemination cap for Non-Investment Grade corporate bonds (excluding those sold in Rule 144A transactions) limits the display of actual size for approximately 15.6 percent of trades representing approximately 84.3 percent of total par value traded. The information is based on a review of all transactions (excluding Rule 144A transactions) in Investment Grade corporate bonds and Non-Investment Grade corporate bonds reported to TRACE from January 1, 2003 to December 31, 2012.

The terms Investment Grade and Non-Investment Grade are defined in, respectively, FINRA Rule 6710(h) and FINRA Rule 6710(i).

[28] At this level, approximately 15.5 percent of all Investment Grade Rule 144A transactions and approximately 61.4 percent of par value traded in such transactions would be disseminated subject to the $5MM dissemination cap, and approximately 52.4 percent of all Non-Investment Grade Rule 144A transactions and approximately 89.9 percent of par valued traded in such transactions would be disseminated subject to the $1MM dissemination cap. The information is based on a review of all Rule 144A transactions in Investment Grade corporate bonds and Non-Investment Grade corporate bonds reported to TRACE from January 1, 2003 through December 31, 2012.

existing Historic Corporate Bond Data Set, Historic Agency Data Set and Historic ABS Data Set.[29]

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 270 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[30] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change to increase fixed income market transparency and establish real-time and historic data sets for Rule 144A transactions is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public. Transparency in Rule 144A transactions will enhance the ability of investors and other market participants to identify and negotiate fair and competitive prices for corporate bonds. The dissemination of price and other Rule 144A transaction information publicly also will aid in the prevention of fraudulent and manipulative acts and practices in the corporate bond market.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change, which is of limited scope and addresses the proposed dissemination of Rule 144A transactions and establishment of real-time and historic data sets of Rule 144A transactions, does not impose any additional costs or obligations under the Rule 6700 Series, such as any new reporting obligations on members or other market participants as Rule 144A transactions are currently required to be reported to TRACE. In addition, as noted above, FINRA's proposal to amend FINRA Rule 6750, FINRA Rule 7730 and the dissemination protocols and disseminate Rule 144A transactions and establish real-time and historic Data Sets of Rule 144A transactions will provide transparency in a market sector for the first time, which may foster more competitive, negotiated, and fairer pricing of Rule 144A transactions and similar corporate bond transactions between market participants, and, in some cases, may result in lower prices for investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in *Regulatory Notice* 12–39 (September 2012).[31] FINRA received 316 comments in response to *Regulatory Notice* 12–39, of which 12 comments directly addressed the dissemination of Rule 144A transactions, specifically whether Rule 144A transactions should be disseminated, and if so, whether such transactions should be disseminated publicly or only to QIBs, and should be subject to dissemination caps.[32] A copy of the *Regulatory Notice* is attached as Exhibit 2a. Copies of the comment letters received in response to the *Regulatory Notice* are attached as Exhibit 2c. Of the 12 comment letters received that addressed the dissemination of Rule 144A transactions, nine were in favor of the proposed rule change and three were opposed.[33]

The comments in favor of disseminating Rule 144A transactions noted that the Rule 144A market has significant volume, has matured and increased in liquidity over the several years that TRACE has been in effect, and investors would benefit from increased transparency.[34] They further noted that increased transparency is a valuable tool in pre-trade price discovery [35] and is associated with a decline in trading costs for investors.[36] Most of these comments supported the same dissemination caps for Rule 144A transactions as are in effect for the applicable public securities transactions.[37] One commenter, while supportive of dissemination of Rule 144A transactions, suggested that no dissemination caps be applied.[38]

The comments opposing dissemination of Rule 144A transactions indicated that transparency is not necessary or appropriate since such transactions are private in nature [39] and, without the offering documents, investors could be confused.[40] One comment opposing dissemination of Rule 144A transactions further noted that such private transactions are done almost exclusively by institutions that are capable of assessing and negotiating the information needed to make investment decisions.[41]

FINRA believes that on balance the benefits of increased transparency as noted above outweigh the concerns expressed by commenters opposing the dissemination of Rule 144A transactions.

[29] FINRA will file a separate rule filing to address the market data fees for the Rule 144A Data Set and the Historic Rule 144A Data Set.

[30] 15 U.S.C. 78*o*–3(b)(6).

[31] In *Regulatory Notice* 12–39 FINRA also requested comment on existing dissemination caps for transactions in corporate bonds, Agency Debt Securities and ABS. FINRA is not proposing to change any of the current dissemination caps at this time.

[32] Most of the 316 comment letters were filed in support of, or in opposition to, increasing or eliminating the dissemination caps currently in effect.

[33] *See* nine comment letters that favored dissemination of Rule 144A transactions: Letter from Bill O'Neill, Sr. Portfolio Manager, Income Research & Management, to Marcia E. Asquith, Corporate Secretary, FINRA, dated September 17, 2012 (''IRM''); Letter from Jim Toffey, CEO, Benchmark Solutions, Inc., to Marcia E. Asquith, Corporate Secretary, FINRA, dated October 4, 2012 (''Benchmark''); Letter from Beth N. Lowson, The Nelson Law Firm, LLC, to Marcia E. Asquith, Corporate Secretary, FINRA, dated October 9, 2012 (''Nelson Law''); Letter from E.A. Repetto, CEO, Dimensional Fund Advisors LP, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 6, 2012 (''Dimensional''); Letter from Lyn Perlmuth, Director, Fixed Income Forum, The Credit Roundtable, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 7, 2012 (''Credit Roundtable''); Letter from Scott Oswald, Sr. Associate, Research, Bristlecone Advisors, LLC, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 9, 2012 (''Bristlecone''); Letter from Dorothy Donohue, Deputy General Counsel, Securities Regulation, The Investment Company Institute, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 12, 2012 (''ICI''); Letter from David A. Hodges, Principal, Integra Wealth, LLC, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 15, 2012 (''Integra''); and Letter from Mark Hepsworth, President, Pricing and Reference Data, Interactive Data Corporation, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 19, 2012 (''Interactive Data''). *See also* three comment letters that did not support disseminating Rule 144A transactions: Letter from Chris Killian, Managing Director, Securities Industry and Financial Markets Association, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 16, 2012 (''SIFMA''); Letter from Michael Nicholas, CEO, Bond Dealers of America, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 19, 2012 (''BDA''); and Letter from Chris Melton, Executive Vice President, Coastal Securities, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 19, 2012 (''Coastal Securities'').

[34] Credit Roundtable, ICI and Benchmark.

[35] Benchmark and Nelson Law.

[36] Dimensional.

[37] Benchmark, IRM, Bristlecone, Credit Roundtable, ICI, Dimensional, Integra and Interactive Data.

[38] Nelson Law.

[39] Coastal Securities.

[40] SIFMA.

[41] BDA.

After studying market data and soliciting comment, FINRA believes that investors would benefit from increased transparency in Rule 144A transactions. FINRA's review of the reported transactions indicates and commenters note that the market in Rule 144A transactions has significant volume, has matured and has increased in liquidity over the several years that TRACE has been in effect. Although one comment opposing dissemination of Rule 144A transactions noted that the contra parties to Rule 144A transactions are almost exclusively institutions that are capable of assessing and negotiating the information needed to make investment decisions, FINRA believes, based on academic studies and the experience in publicly traded corporate bonds, that even in institutional markets more transparent markets tend to reduce spreads and trade execution costs, which may be indicative of more competitive prices for investors. In addition, FINRA notes that dissemination may assist market participants in price discovery as well as determining execution quality. Finally, FINRA believes that transparency in this sector may improve the quality of pricing for valuation purposes, which is critical for both dealers and institutions.

In addition, FINRA does not believe that providing price transparency in Rule 144A transactions generally will have an adverse impact on the liquidity of the market. FINRA notes that academic studies have not established a relationship between transparency and a reduction in liquidity of a specific market sector. FINRA acknowledges, however, that each market sector is different, and intends to monitor the market in Rule 144A transactions in TRACE-Eligible Securities to determine if there is an adverse impact to liquidity or other factors, as FINRA has previously done when introducing transparency in other debt market sectors.

A commenter raised concerns that investors will be confused by transparency in Rule 144A transactions. FINRA does not believe that investor confusion will result from such transparency. FINRA does not believe that non-QIB institutional customers will be confused by access to Rule 144A transaction data. First, FINRA believes that establishing separate data sets for Rule 144A transaction information avoids potential investor confusion since such transactions are not comingled with non-Rule 144A transactions and can be presented separately and clearly marked as such. In addition, such customers can use this information as an additional data point in pricing bonds that they are eligible to trade, and if they fail to recognize the Rule 144A status of the trades and think they can trade these precise bonds, their broker will advise otherwise.

For the reasons discussed above, FINRA believes that transparency should be provided in Rule 144A transactions and, accordingly, proposes to amend FINRA Rule 6750 and the TRACE dissemination protocols to provide for dissemination of Rule 144A transactions.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove 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–FINRA–2013–029 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2013–029. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2013–029 and should be submitted on or before August 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–17857 Filed 7–24–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70007; File No. SR–MIAX–2013–21]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Order Approving Proposed Rule Change To Modify the Allocation of Directed Orders in Specific Limited Situations

July 19, 2013.

I. Introduction

On May 22, 2013, Miami International Securities Exchange LLC (the ''Exchange'' or ''MIAX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to modify its practice of allocating Directed Orders. The proposed rule change was published for comment in

[42] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the **Federal Register** on June 7, 2013.[4] The Commission did not receive any comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange's proposal amends MIAX Rule 514 to modify the allocation of Directed Orders [5] to provide that a Directed Lead Market Maker (''DLMM'') will always receive a minimum participation allocation of at least one (1) contract. Specifically, the proposal ensures that the DLMM will be allocated a minimum of one contract in situations where, due to the Exchange's allocation calculation methodology and the fact that the Exchange system rounds down any fractional contract size allocations, the DLMM participation entitlement allocation would otherwise have resulted in the DLMM being allocated zero contracts.

Currently, MIAX Rule 514(h)(1) provides the formula used to calculate the DLMM participation entitlement. The Rule provides that the DLMM participation entitlement is equal to the greater of: (i) The proportion of the total size at the best price represented by the size of its quote; (ii) sixty percent (60%) of the contracts to be allocated if there is only one (1) other Market Maker quotation at the NBBO; or (iii) forty percent (40%) if there are two (2) or more other Market Maker quotes at the NBBO. According to MIAX, the DLMM participation entitlement algorithm works well when applied to Directed Orders of a contract size of three (3) or more. However, as MIAX explained in the Notice,[6] for Directed Orders of a contract size of two (2) or fewer, the DLMM participation entitlement allocation may result in an allocation of zero due to the fact that the Exchange system rounds down any fractional contract size allocations.[7] MIAX provided several examples in the Notice to illustrate how, in such instances, a Lead Market Maker to whom the order was specifically directed does not receive a contract allocation.

The MIAX proposal amends Rule 514(h)(1) to add a provision to ensure that DLMMs receive at least one contract of an incoming Directed Order. Thus, under the proposed rule change, a DLMM will be entitled to the greatest of: (i) The pro-rata share; (ii) 40% or 60% of the incoming Directed Order (depending on the number of other Market Makers quoting along with the DLMM, as described above); *or (iii) one (1) contract.* Accordingly, MIAX's proposal will allow the Exchange to ensure that the Electronic Exchange Member's (''EEM'') Directed Order would trade a minimum of one contract with the quote of the DLMM, when the DLMM participation entitlement applies.

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it consistent with the requirements of the Act.[8] Specifically, the Commission believes it is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that a Directed Order is an order that an EEM enters into the MIAX system and directs to a particular Lead Market Maker. As such, EEMs have a reasonable expectation that, in most situations when the DLMM participation entitlement applies, the EEM's Directed Order will interact and execute at least partially with the quote of the DLMM.[10] However, under MIAX's current rules, solely because of MIAX's practice of rounding down factional contract sizes [11] and its current allocation formula, Directed Orders with a contract size of two or less may result in the DLMM being allocated zero contracts. The Commission believes that it is appropriate to allow MIAX to revise its rules to account for this limited situation and ensure that DLMMs will receive at least one contract of any order that is directed to them when the DLMM's participation entitlement applies.[12] The Commission believes that this change will allow the rule to operate as anticipated by EEMs, providing greater certainty of execution with regard to Directed Orders. Further, the proposed rule change allows MIAX to effectuate one of the purposes of the Directed Order participation entitlement; namely, to reward DLMMs for attracting order flow to the Exchange.

The Commission notes that this rule change will not impact the application of other participation entitlements. For instance, MIAX Rule 514(i)(1) provides that a PLMM may receive either the PLMM entitlement or, if applicable, the DLMM entitlement, but not both. As such, although this proposal will change the allocation for Directed Orders of two or fewer contacts, it will not, in any way, affect the small order participation guarantee for PLMMs in MIAX Rule 514(g)(2) or allow DLMMs to receive both the small order participation entitlement in that rule and the Directed Order participation entitlement in Rule 514(h). Additionally, under MIAX Rule 514(h)(4), the PLMM and DLMM participation entitlements never allow for an allocation that is greater than the quantity of contracts quoted by the PLMM or DLMM. Furthermore, the Commission notes that the proposed change will not affect Priority Customers because DLMM participation entitlements may take effect only after all Priority Customer orders are satisfied.[13]

For the foregoing reasons, the Commission believes that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [14] that the proposed rule change (SR–MIAX–2013–21), is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

[4] *See* Securities Exchange Act Release No. 69682 (June 3, 2013), 78 FR 34417 (''Notice'').

[5] A ''Directed Order'' is an order entered into the System by an Electronic Exchange Member with a designation for a Lead Market Maker (referred to as a ''Directed Lead Market Maker''). *See* Securities Exchange Act Release No. 69507 (May 3, 2013), 78 FR 27269 (May 9, 2013) (SR–MIAX–2013–20).

[6] *See* Notice, *supra* note 4.

[7] MIAX expressed its belief in the Notice that other competing exchanges may instead round up in certain situations where there is a fractional contract size allocation. *See* Notice, *supra* note 4.

[8] 15 U.S.C. 78f. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] The Commission notes, however, that there may be other situations where the DLMM may not have the opportunity to interact with the Directed Order. For example, the DLMM participation entitlement applies only to any remaining balance after Priority Customer orders have been satisfied. *See* MIAX Rule 514(g). MIAX Rule 100 defines ''Priority Customer'' as ''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).''

[11] MIAX noted that other exchanges may not have the same issue with Directed Orders because their systems round up instead of down where there are fractional contract size allocations. *See supra* note 7.

[12] *See supra* note 10 (concerning the possibility that a Priority Customer may have priority).

[13] *See* MIAX Rule 514(h).

[14] 15 U.S.C. 78f(b)(2).

[15] 17 CFR 200.30–3(a)(12).

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–17839 Filed 7–24–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70008; File No. SR–NYSEArca–2013–70]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of First Trust Inflation Managed Fund

July 19, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 8, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): First Trust Inflation Managed Fund. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares [4] on the Exchange: First Trust Inflation Managed Fund (''Fund'').[5] The Shares will be offered by First Trust Exchange-Traded Fund IV (the ''Trust''), which is organized as a Massachusetts business trust and is registered with the Commission as an open-end management investment company.[6]

The investment adviser to the Fund will be First Trust Advisors L.P. (the ''Adviser'' or ''First Trust''). First Trust Portfolios L.P. (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. Bank of New York Mellon (the ''Administrator'' or ''BNY'') will serve as administrator, custodian and transfer agent for the Fund.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[7] Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer but is affiliated with First Trust Portfolios L.P., a broker-dealer, and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser or any sub-adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing of Dent Tactical ETF); 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR–NYSEArca–2010–57) (order approving listing of AdvisorShares WCM/BNY Mellon Focused Growth ADR ETF); 69251 (March 28, 2013), 78 FR 20162 (April 3, 2013) (SR–NYSEArca–2013–14) (order approving listing of Cambria Shareholder Yield ETF).

[6] The Trust is registered under the 1940 Act. On December 7, 2012, the Trust filed with the Commission an amendment to the Trust's registration statement on Form N–1A under the Securities Act of 1933 (''1933 Act'') and under the 1940 Act relating to the Fund (File Nos. 333–174332 and 811–22559) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28468 (October 27, 2008) (File No. 812–13477) (''Exemptive Order'').

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

According to the Registration Statement, the Fund's primary investment objective will be to seek long-term capital appreciation and its secondary investment objective will be to seek current income. The Fund will be an actively managed exchange-traded fund that will invest in (1) exchange-listed common stocks and other equity securities described below (including ''Depositary Receipts'', as defined herein) of companies in the agriculture, energy and metals and mining sectors; (2) exchange-traded products (the ''Underlying ETPs'') [8] that hold commodities, such as gold and silver, or futures on such commodities; (3) debt securities and Underlying ETPs that invest in such securities; and (4) real estate interests, including other exchange-traded funds that invest in such interests.

The asset class allocation between equity securities, bonds, commodities and real estate will be performed on a quarterly basis by First Trust. Changes to the asset allocation will be considered on a shorter-time frame if market conditions warrant.[9] After the initial asset class allocation, the securities for each asset type will be selected as described below.

Equity Allocation

According to the Registration Statement, the Fund may invest in equity securities, which include common stocks; preferred securities; warrants to purchase common stocks or preferred securities; securities convertible into common stocks or preferred securities; and other securities with equity characteristics. The Fund also may invest in U.S. dollar-denominated foreign equity securities.[10]

Under normal market conditions,[11] the Fund will invest, in addition to common stocks, in U.S. dollar-denominated sponsored depositary receipts, which will include American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), European Depositary Receipts (''EDRs'') and American Depositary Shares (''ADSs'') (collectively ''Depositary Receipts'') [12], of agriculture, energy and metals and mining companies.

The Adviser anticipates that the equities portion of the portfolio initially will represent 60% of the net assets of the Fund, although this percentage may vary over time.

According to the Registration Statement, an initial universe of inflation-related stocks will be created by selecting stocks of agricultural, energy and metals and mining companies that trade on a U.S. stock exchange and have adequate liquidity for investment. The Fund's portfolio will be selected by examining the historical financial results of the securities from the initial universe. Companies that do not produce positive cash flow or companies with credit quality issues will be eliminated. The securities will then be evaluated by fundamental factors such as sales, earnings and cash flow growth; valuation factors such as price/earnings, price/cash flow, price/sales and price/book; and technical factors such as price momentum and earnings surprises. An estimated value will be calculated for each of the companies. The companies that currently trade at an attractive market price relative to their estimated value will be favored over companies that do not. The final portfolio will then be selected by the Adviser based on the security's fundamentals, valuation and technical factors, the security's relative valuation and other qualitative factors such as competitive advantages, new products and quality of management.

Bond Allocation

The Fund will invest in the types of bonds described below primarily through investing in Underlying ETPs that concentrate in these types of holdings. Bonds with fixed coupons during periods of rising inflation expectations may likely experience price depreciation due to the impact of rising interest rates. According to the Registration Statement, the negative effects of inflation on bonds may be offset through Underlying ETPs that invest in inflation-linked bonds. Inflation-linked government bonds, commonly known in the U.S. as Treasury Inflation-Protected Securities (''TIPS''), are securities issued by governments that are designed to provide inflation protection to investors. The coupon payments and principal value on these securities are adjusted according to inflation over the life of the bonds. The Underlying ETPs chosen to represent the bond portion of the portfolio will be reviewed for capitalization, liquidity, expenses, tracking error and taxation structure factors. First Trust anticipates that the bond portion of the portfolio will initially represent approximately 20% of the net assets of the Fund, although this percentage may vary over time.

The Fund, through investments in Underlying ETPs, will invest primarily in investment grade debt securities with respect to the bond portion of its portfolio and may invest up to 15% of its net assets in high yield debt securities, including leveraged loans,[13] that are rated below-investment grade at the time of purchase, or unrated securities deemed by the Fund's Adviser to be of comparable quality. ''Below investment grade'' is defined as those securities that have a long-term credit rating below ''BBB-'' by Standard & Poor's Rating Group, a division of McGraw Hill Companies, Inc. (''S&P''), or below ''Baa3'' by Moody's Investors Service, Inc. (''Moody's'') or comparably rated by another nationally recognized statistical rating organization (''NRSRO'').

The Fund, or the Underlying ETPs in which it may invest, may invest in a

[8] The term ''Underlying ETPs'' includes Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Trust Units (as described in NYSE Arca Equities Rule 8.500); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600); and closed-end funds. The Underlying ETPs all will be listed and traded in the U.S. on registered exchanges.

[9] Such market conditions could include periods of extreme volatility and force majeure events including, but not limited to, elements of nature or acts of God, earthquakes, strikes, riots, acts of war, terrorism or other national emergencies.

[10] *See* notes 12 and 30, *infra.*

[11] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[12] The equity securities, including Depositary Receipts, in which the Fund will invest will trade in markets that are members of the Intermarket Surveillance Group (''ISG'') or are parties to comprehensive surveillance sharing agreements with the Exchange. *See* note 30, *infra.*

[13] Under normal market conditions, the Fund may invest up to 15% of its net asset value in leveraged loans, including senior secured bank loans, unsecured and/or subordinated bank loans, loan participations and unfunded contracts. The Fund may invest in such loans by purchasing assignments of all or a portion of loans or loan participations from third parties. These loans are made by or issued to corporations primarily to finance acquisitions, refinance existing debt, support organic growth, or pay out dividends, and are typically originated by large banks and are then syndicated out to institutional investors as well as to other banks.

variety of debt securities, including corporate debt securities, U.S. government securities and non-U.S. debt securities. Corporate debt securities are fixed-income securities issued by businesses to finance their operations. Notes, bonds, debentures and commercial paper are the most common types of corporate debt securities, with the primary difference being their maturities and secured or unsecured status. Commercial paper has the shortest term and is usually unsecured. Certain debt securities held by the Fund may include debt instruments that have economic characteristics that are similar to preferred securities. Such debt instruments are typically issued by corporations, generally in the form of interest bearing notes, or by an affiliated business trust of a corporation, generally in the form of (i) beneficial interests in subordinated debentures or similarly structured securities or (ii) more senior debt securities that pay income and trade in a manner similar to preferred securities. Such debt instruments that have economic characteristics similar to preferred securities include trust preferred securities, hybrid trust preferred securities and senior notes/baby bonds.

The Fund will invest in Underlying ETPs that are designed to track government bond indexes, bank loan indexes, and floating rate security indexes.

Commodities Allocation

The Fund will invest in commodities through investing in Underlying ETPs that invest in commodities or futures on such commodities, such as gold, silver and commodity indexes. According to the Registration Statement, in general, commodities have relatively high correlations with inflation, and the prices of real assets, such as gold, silver, oil and copper, often rise along with increasing interest rates and inflation. Additionally, commodities normally move in the opposite direction of the U.S. dollar. First Trust anticipates that the commodities portion of the portfolio will represent 10% of the initial net assets of the Fund, although this percentage may vary over time.

Real Estate Allocation

The Fund will invest in U.S. exchange-listed securities of real estate investment trusts (''REITS''). According to the Registration Statement, in general, real estate prices have generated a correspondingly large increase in return and largely preserved the purchasing power of the original investment during periods of high inflation. The real estate portion of the portfolio will represent 10% of the initial net assets of the Fund, although this percentage may vary over time. The Fund also may invest in exchange-traded funds designed to track real estate indexes.

Other Investments

Normally, the Fund will invest substantially all of its assets in the securities allocations described above to meet its investment objectives. The Fund may invest the remainder of its assets in securities with maturities of less than one year or cash equivalents, or it may hold cash. The percentage of the Fund invested in such holdings may vary and depend on several factors, including market conditions. For temporary defensive purposes and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies and invest part or all of its assets in these securities or it may hold cash.[14] During such periods, the Fund may not be able to achieve its investment objectives. The Fund may adopt a defensive strategy when the portfolio manager believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

The Fund may invest up to 15% of its net assets in U.S. exchange-listed futures, interest rate swaps, total return swaps, non-U.S. currency swaps, credit default swaps,[15] U.S. exchange-listed options, forward contracts and other derivative instruments in the aggregate to seek to enhance returns,[16] to hedge some of the risks of its investments in securities,[17] as a substitute for a position in the underlying asset, to reduce transaction costs, to maintain full market exposure in a given asset class, to manage cash flows, to limit exposure to losses due to changes to non-U.S. currency exchange rates or to preserve capital.[18]

The Fund will only enter into transactions in derivative instruments with counterparties that First Trust reasonably believes are capable of performing under the contract[19] and will post as collateral at least $250,000 each day.

The Fund may invest in shares of money market funds to the extent permitted by the 1940 Act.

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction does not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities.[20]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser[21] and master demand notes.

[14] The Fund may, without limit as to percentage of assets, purchase U.S. government securities or short-term debt securities to keep cash on hand fully invested or for temporary defensive purposes. Short-term debt securities are securities from issuers having a long-term debt rating of at least A by S&P, Moody's or Fitch, Inc. (''Fitch'') and having a maturity of one year or less. The use of these temporary investments will not be a part of a principal investment strategy of the Fund. Short-term debt securities are defined to include, without limitation, the following: (1) U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities. (2) Certificates of deposit issued against funds deposited in a bank or savings and loan association. (3) Bankers' acceptances, which are short-term credit instruments used to finance commercial transactions. (4) Repurchase agreements, which involve purchases of debt securities. (5) Bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest. (6) Commercial paper, which are short-term unsecured promissory notes, including variable rate master demand notes issued by corporations to finance their current operations. Master demand notes are direct lending arrangements between the Fund and a corporation. The Fund may only invest in commercial paper rated A–1 or higher by S&P, Prime-1 or higher by Moody's or F2 or higher by Fitch.

[15] To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house.

[16] For example, the Fund may sell exchange-listed covered calls on equity positions in the portfolio in order to enhance its income.

[17] The Fund may use derivative investments to hedge against interest rate and market risks. The Fund may engage in various interest rate and currency hedging transactions, including buying or selling U.S. exchange-listed options or entering into other transactions including forward contracts, fully collateralized swaps and other derivatives transactions.

[18] According to the Registration Statement, the Fund will not enter into futures and options transactions if the sum of the initial margin deposits and premiums paid for unexpired options or futures exceeds 5% of the Fund's total assets.

[19] The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser's Execution Committee will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's analysts will evaluate each approved counterparty using various methods of analysis, including the counterparty's liquidity in the event of default, the broker-dealer's reputation, the Adviser's past experience with the broker-dealer, the Financial Industry Regulatory Authority's (''FINRA'') BrokerCheck and disciplinary history and its share of market participation.

[20] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[21] In reaching liquidity decisions, the Adviser may consider the following factors: the frequency

Continued

The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[22]

The Fund intends to qualify annually and to elect to be treated as a regulated investment company (''RIC'') under the Internal Revenue Code.[23]

The Fund may invest up to 10% of its net assets in inverse Underlying ETPs, but it will not invest in leveraged or inverse leveraged Underlying ETPs.

The Fund's investments will be consistent with the Fund's investment objectives and will not be used to enhance leverage. That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's broad-based securities market index (as defined in Form N–1A) (*i.e.,* S&P 500).

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3[24] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Creations and Redemptions

The Fund will issue and redeem Shares on a continuous basis, at net asset value (''NAV''), only in large specified blocks each consisting of 50,000 Shares (each such block of Shares, called a ''Creation Unit,'' and any group of Creation Units, the ''Creation Unit Aggregation''). The Creation Units will be issued and redeemed for securities in which the Fund will invest, cash or both securities and cash.

The consideration for purchase of Creation Units of the Fund may consist of (i) cash in lieu of all or a portion of a basket of equity securities (''Deposit Securities''), and/or (ii) a designated portfolio of equity securities generally held by the Fund as determined by First Trust per each Creation Unit (''Fund Securities'') and generally an amount of cash (the ''Cash Component''). Together, the Deposit Securities and the Cash Component (including the cash in lieu amount) constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

BNY, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, prior to the opening of business of the New York Stock Exchange (''NYSE'') (currently 9:30 a.m., Eastern time (''E.T.'')), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of a Fund Deposit, BNY, through the NSCC, also will make available on each business day, the estimated Cash Component, effective through and including the previous business day, per Creation Unit of the Fund.

All orders to create or redeem Creation Units must be received by the transfer agent no later than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., E.T.) in each case on the date such order is placed in order for creation or redemption of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form.

Fund Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the transfer agent and only on a business day. The Fund will not redeem Shares in amounts less than a Creation Unit. Investors must accumulate enough Shares in the secondary market to constitute a Creation Unit in order to have such Shares redeemed by the Trust. With respect to the Fund, BNY, through the NSCC, will make available prior to the opening of business on the NYSE (currently 9:30 a.m., E.T.) on each business day, the identity of the Fund Securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Units.

Unless cash redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit generally will consist of Fund Securities—as announced on the business day of the request for redemption received in proper form—plus or minus cash in an amount equal to the difference between the NAV of the Fund Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the applicable redemption transaction fee as described in the Registration Statement and, if applicable, any operational processing and brokerage costs, transfer fees or stamp taxes.

Net Asset Value

The Fund's NAV will be determined as of the close of trading (normally 4:00 p.m., E.T.) on each day the NYSE is open for business. NAV will be calculated for the Fund by taking the market price of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, and dividing such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share.

The Fund's investments will be valued at market value or, in the absence of market value with respect to any portfolio securities, at fair value in accordance with valuation procedures adopted by the Trust's Board of Trustees (''Board'') and in accordance with the

of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[22] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

[23] 26 U.S.C. 851.

[24] 17 CFR 240.10A–3.

1940 Act. Portfolio securities traded on more than one securities exchange will be valued at the last sale price or, if so disseminated by an exchange, the official closing price, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such securities. Portfolio securities traded in the over-the-counter market will be valued at the closing bid prices. Short-term investments that mature in less than 60 days when purchased will be valued at amortized cost.

Availability of Information

The Fund's Web site (*www.ftportfolios.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[25] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session (9:30 a.m. to 4:00 p.m. E.T.) on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.[26]

On a daily basis, the Fund will disclose for each portfolio security and other financial instrument of the Fund the following information on the Fund's Web site: ticker symbol (if applicable), name of security and financial instrument, number of shares (if applicable) and dollar value of securities and financial instruments held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which will include the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via the NSCC. The basket will represent one Creation Unit of the Fund.

Information regarding the intra-day value of the Shares of the Fund, which is the Portfolio Indicative Value (''PIV'') as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated every 15 seconds throughout the Exchange's Core Trading Session by one or more major market data vendors.[27] The PIV should not be viewed as a ''real-time'' update of the NAV per Share of the Fund because the PIV may not be calculated in the same manner as the NAV, which is computed once a day, generally at the end of the business day. The price of a non-U.S. security that is primarily traded on a non-U.S. exchange shall be updated, using the last sale price, every 15 seconds throughout the trading day, provided, that upon the closing of such non-U.S. exchange, the closing price of the security, after being converted to U.S. dollars, will be used. Furthermore, in calculating the PIV of the Fund's Shares, exchange rates may be used throughout the Core Trading Session that may differ from those used to calculate the NAV per Share of the Fund and consequently may result in differences between the NAV and the PIV.

The Adviser represents that the Trust, First Trust and BNY will not disseminate non-public information concerning the Trust.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the CTA high-speed line. The intra-day, closing and settlement prices of the portfolio securities are also readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[28] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m., E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE

[25] The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[26] Under accounting procedures followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[27] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate PIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

[28] *See* NYSE Arca Equities Rule 7.12.

Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[29]

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, equity securities, futures contracts and options contracts with other markets and other entities that are members of the ISG and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, equity securities, futures contracts and options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, equity securities, futures contracts and options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[30]

As noted above, the equity securities in which the Fund will invest, including Underlying ETPs, Depositary Receipts, REITs, common stocks, preferred securities, warrants, convertible securities, and U.S. dollar-denominated foreign securities, as well as certain derivatives such as options and futures contracts, will trade in markets that are ISG members or are parties to a comprehensive surveillance sharing agreement with the Exchange.[31]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV will be disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. *Statutory Basis*

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[32] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, equity securities, futures contracts and options contracts with other markets and other entities that are members of the ISG and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, equity securities, futures contracts and options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, equity securities, futures contracts and options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The equity securities in which the Fund will invest, including Underlying ETPs, Depositary Receipts, REITs, common stocks, preferred securities, warrants, convertible securities, and U.S. dollar-denominated foreign securities, will trade in markets that are ISG members or are parties to comprehensive surveillance sharing agreements with the Exchange. The Fund may invest up to 10% of its net assets in inverse Underlying ETPs, but it will not invest in leveraged or inverse leveraged Underlying ETPs. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser and master demand notes. The Fund may invest up to 15% of its net assets in U.S. exchange-listed futures, interest rate swaps, total return swaps, non-U.S. currency swaps, credit default swaps, U.S. exchange-listed options and certain other derivative instruments, as described above. The Fund, through investments in Underlying ETPs, will invest primarily in investment grade debt securities with respect to the bond portion of its portfolio and may invest up to 15% of its net assets in high yield debt securities, including leveraged loans, that are rated below-investment grade at the time of purchase, or unrated

[29] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[30] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[31] *See* note 12, *supra*.

[32] 15 U.S.C. 78f(b)(5).

securities deemed by the Fund's Adviser to be of comparable quality. The Fund's investments will be consistent with the Fund's investment objectives and will not be used to enhance leverage.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the PIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in a Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that holds equity, debt and commodity-related securities, which will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–70 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–2013–70. 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–2013–70 and should be submitted on or before August 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–17856 Filed 7–24–13; 8:45 am]

BILLING CODE 8011–01–P

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Order of Suspension of Trading; In the Matter of American Wenshen Steel Group, Inc., Case Financial, Inc., Global ePoint, Inc., and iMedia International, Inc.

July 23, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Wenshen Steel Group, Inc. because it has not filed any periodic reports since the period ended June 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Case Financial, Inc. because it has not filed any periodic reports since the period ended June 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global ePoint, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of iMedia International, Inc. because it has not filed any periodic reports since the period ended June 30, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on July 23, 2013, through 11:59 p.m. EDT on August 5, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–17972 Filed 7–23–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Camelot Entertainment Group, Inc., Cavico Corp., Global 8 Environmental Technologies, Inc., GTC Telecom Corp., ICF Corporation, and New NRG, Inc.; Order of Suspension of Trading

July 23, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Camelot Entertainment Group, Inc. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cavico Corp. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global 8 Environmental Technologies, Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of GTC Telecom Corp. because it has not filed any periodic reports since the period ended March 31, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ICF Corporation because it has not filed any periodic reports since the period ended September 30, 2005.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of New NRG, Inc. because it has not filed any periodic reports since the period ended December 31, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on July 23, 2013, through 11:59 p.m. EDT on August 5, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–17973 Filed 7–23–13; 4:15 pm]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2013–0030]

Modifications to the Disability Determination Procedures; Extension of Testing of Some Disability Redesign Features

AGENCY: Social Security Administration.

ACTION: Notice of the extension of tests involving modifications to the disability determination procedures.

SUMMARY: We are announcing the extension of tests involving modifications to disability determination procedures authorized by 20 CFR 404.906 and 416.1406. These rules authorize us to test several modifications to the disability determination procedures for adjudicating claims for disability insurance benefits under title II of the Social Security Act (Act) and for supplemental security income payments based on disability under title XVI of the Act.

DATES: We are extending our selection of cases to be included in these tests from September 27, 2013 until no later than September 26, 2014. If we decide to continue selection of cases for these tests beyond this date, we will publish another notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Janet Truhe, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–7203, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: Our current rules authorize us to test, individually or in any combination, certain modifications to the disability determination procedures. 20 CFR 404.906 and 416.1406. We conducted several tests under the authority of these rules. In the ''single decisionmaker'' test, a disability examiner may make the initial disability determination in most cases without obtaining the signature of a medical or psychological consultant. We also conducted a separate test, which we call the ''prototype,'' in 10 States. 64 FR 47218. Currently, the

prototype combines the single decisionmaker approach described above with the elimination of the reconsideration level of our administrative review process.

We extended the time period for selecting claims for these tests several times. Most recently, we extended the time from September 28, 2012 to September 27, 2013. 77 FR 35464. We are extending case selection for the prototype and the single decisionmaker tests until September 26, 2014. If we decide to end any part of these tests in any of the 10 States in which we are conducting the tests prior to September 26, 2014, we will publish another notice in the **Federal Register**.

Dated: July 17, 2013.

Marianna LaCanfora,

Acting Deputy Commissioner for Retirement and Disability Policy.

[FR Doc. 2013–17753 Filed 7–24–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8390]

Designation of Bulut Yayla, AKA: Samet Ince as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Bulut Yayla, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in Section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: July 8, 2013.

John F. Kerry,

Secretary of State.

[FR Doc. 2013–17902 Filed 7–24–13; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2013–0023]

Notice of Rescheduled Hearing in the Section 301 Investigation of Ukraine

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The public hearing in the Section 301 investigation of the intellectual property acts, policies, and practices of the Government of Ukraine that resulted in the identification of Ukraine as a priority foreign country is rescheduled for 10:30 a.m. on September 9, 2013.

DATES: Persons wishing to testify orally at the rescheduled public hearing must provide written notification of their intention, as well as a summary of their hearing testimony, by August 16, 2013. A written version of hearing testimony is due by August 28, 2013. The public hearing will be held on September 9, 2013, beginning at 10:30 a.m., at Conference Rooms 1 and 2 at the offices of USTR, 1724 F Street NW., Washington, DC 20508. Persons wishing to provide written comments and/or rebuttal comments to the hearing testimony must do so by September 23, 2013.

ADDRESSES: Notifications of intent to testify, testimony summaries, written testimony, and comments should be submitted electronically via *www.regulations.gov,* docket number USTR–2013–0023. If you are unable to provide submissions at *www.regulations.gov,* please contact Gwendolyn Diggs, Staff Assistant to the Section 301 Committee, at (202) 395–3150, to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning submissions, please contact Gwendolyn Diggs at the above number. Questions regarding this investigation should be directed as appropriate to: Elizabeth Kendall, Director for Intellectual Property and Innovation, Office of the United States Trade Representative, at (202) 395–3580; Isabella Detwiler, Director for Europe, at (202) 395–6146; or Shannon Nestor, Assistant General Counsel, at (202) 395–3150. General questions regarding Section 301 investigations should be directed to William Busis, Deputy Assistant U.S. Trade Representative for Monitoring & Enforcement and Chair of the Section 301 Committee, at (202) 395–3150. Additional information on the investigation may be posted at *www.ustr.gov,* under Trade Topics—Enforcement.

SUPPLEMENTARY INFORMATION: On May 30, the Office of the United States Trade Representative initiated an investigation into the intellectual property acts, policies, and practices of the Government of Ukraine that resulted in the identification of Ukraine as a priority foreign country. See Identification of Ukraine as a Priority Foreign Country and Initiation of Section 301 Investigation, 78 FR 33886 (June 5, 2013). As indicated above, the date for the public hearing and the due dates for notifications of intent to testify, testimony summaries, written testimony, and comments have been rescheduled. Further information regarding requirements for submissions is included in the notice of initiation (78 FR 33886). Persons who have already submitted notifications of intent to testify do not need to resubmit a notification for the rescheduled hearing date.

William Busis,

Chair, Section 301 Committee.

[FR Doc. 2013–17845 Filed 7–24–13; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending June 29, 2013

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2013–0123.

Date Filed: June 27, 2013.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 18, 2013.

Description: Application of Pinnacle Airlines, Inc. (''Pinnacle'') requesting registration of name change and reissuance of Pinnacle's certificates of public convenience and necessity in the name of ''ENDEAVOR AIR, INC.''.

Barbara J. Hairston,

Acting Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–17634 Filed 7–24–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 22, 2013.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before August 26, 2013 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–0117.

Type of Review: Revision of a currently approved collection.

Title: Original Issue Discount.

Form: 1099–OID.

Abstract: Form 1099–OID is used for reporting original issue discount as required by section 6049 of the Internal Revenue Code. It is used to verify that income earned on discount obligations is properly reported by the recipient.

Affected Public: Private sector; businesses or other for-profits.

Estimated Annual Burden Hours: 526,730.

OMB Number: 1545–0889.

Type of Review: Extension without change of a currently approved collection.

Title: Disclosure Statement and Regulation Disclosure Statement.

Form: 8275, 8275–R.

Abstract: IRC section 6662 imposes accuracy related penalties for substantial understatement of tax liability or negligence or disregard of rules and regulations. Section 6694 imposes similar penalties on return preparers. Regulations section 1.6662–4(e) and (f) provide for reduction of these penalties if adequate disclosure of the tax treatment is made on Form 8275 or, if the position is contrary to a regulation on Form 8275–R.

Affected Public: Private sector; Businesses and other for-profits.

Estimated Annual Burden Hours: 3,716,664.

OMB Number: 1545–1379.

Type of Review: Extension without change of a currently approved collection.

Title: Excise Taxes on Excess Inclusions of REMIC Residual Interests.

Form: 8831.

Abstract: Form 8831 is used by a real estate mortgage investment conduit (REMIC) to figure its excise tax liability under Code sections 860E(e)(1), 860E(e)(6), and 860E(e)(7). IRS uses the information to determine the correct tax liability of the REMIC.

Affected Public: Private sector; businesses and other for-profits.

Estimated Annual Burden Hours: 237.

OMB Number: 1545–1271.

Type of Review: Extension without change of a currently approved collection.

Title: REG–209035–86 (Final) Stock Transfer Rules; REG–208165–91 (Final) Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations and Related Reporting Requirements.

Abstract: A U.S. person must generally file a gain recognition agreement with the IRS in order to defer gain on a section 367(a) transfer of stock to a foreign corporation, and must file a notice with the Service if it realizes any income in a section 367(b) exchange. These requirements ensure compliance with the respective Code sections.

Affected Public: Private sector; businesses and other for-profits.

Estimated Annual Burden Hours: 2,390.

OMB Number: 1545–1449.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8652—Cash Reporting by Court Clerks.

Abstract: Section 60501(g) imposes a reporting requirement on criminal court clerks that receive more than $10,000 in cash as bail. The IRS will use the information to identify individuals with large cash incomes. Clerks must also furnish the information to the United States Attorney for the jurisdiction in which the individual charged with the crime resides and to each person posting the bond whose name appears on Form 8300.

Affected Public: Federal government.

Estimated Annual Burden Hours: 125.

OMB Number: 1545–1566.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 97–66, Certain Payments Made Pursuant to a Securities Lending Transaction; Notice 2010–46, Prevention of Over-Withholding and U.S. Tax Avoidance With Respect to Certain Substitute Dividend Payments.

Abstract: Notice 97–66 modifies final regulations which are effective November 14, 1997. The Notice relaxes the statement requirement with respect to substitute interest payments relating to securities loans and repurchased transactions. It also provides a withholding mechanism to eliminate excessive withholding on multiple payments in a chain of substitute dividend payments. Notice 2010–46 modifies Notice 97–66, by providing necessary information to ensure taxpayers are not subject to excessive tax pursuant to IRC section 871(l). The information will allow a withholding agent to make a substitute dividend payment to certain counterparties in a series of securities lending transactions without withholding and depositing additional excessive tax.

Affected Public: Private sector; businesses and other for-profits.

Estimated Annual Burden Hours: 62,750.

OMB Number: 1545–1572.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8775—Election Not to Apply Look-Back Methods in De Minimis Cases (REG–120200–97).

Abstract: The regulation requires taxpayers to attach a notification statement to their returns when they elect not to apply the look-back method to long-term contracts in de minimis cases.

Affected Public: Private sector; businesses or other for-profits.

Estimated Annual Burden Hours: 4,000.

OMB Number: 1545–1590.
Type of Review: Extension without change of a currently approved collection.
Title: REG–251698–96 (TD 8869–Final) Subchapter S Subsidiaries.
Abstract: The IRS will use the information provided by taxpayers to determine whether a corporation should be treated as an S corporation, a C Corporation, or an entity that is disregarded for federal tax purposes. The collection of information covered in the regulation is necessary for a taxpayer to obtain, retain, or terminate S corporation treatment.
Affected Public: Private sector; businesses or other for-profits.
Estimated Annual Burden Hours: 10,110.

OMB Number: 1545–1738.
Type of Review: Extension without change of a currently approved collection.
Title: Revenue Procedure 2001–29, Leveraged Leases.
Abstract: Revenue Procedure 2001–29 sets forth the information and representations required to be furnished by taxpayers in requests for an advance ruling that a leveraged lease transaction is, in fact, a valid lease for federal income tax purposes.
Affected Public: Private sector; businesses or other for-profits.
Estimated Annual Burden Hours: 800.

OMB Number: 1545–1823.
Type of Review: Extension without change of a currently approved collection.
Title: e-Services Registration TIN Matching—Application and Screens for TIN Matching Interactive/e-Services Products.
Form: 13350.
Abstract: E-services is a system which will permit the Internal Revenue Services to electronically communicate with third party users to support electronic filing and resolve tax administration issues for practitioners, payers, states, and Department of Education Contractors Registration is required to authenticate users that plan to access e-services products. This system is a necessary outgrowth of advanced information and communication technologies. TIN Matching is one of the products available through e-Services offered via the internet and accessible through the irs.gov Web site.
Affected Public: Private sector; businesses or other for-profits.
Estimated Annual Burden Hours: 3,670,000.

OMB Number: 1545–1868.
Type of Review: Extension without change of a currently approved collection.
Title: REG–116664–01 (TD 9300—Final) Guidance to Facilitate Business Electronic Filing.
Abstract: These regulations remove certain impediments to the electronic filing of business tax returns and other forms. The regulations reduce the number of instances in which taxpayers must attach supporting documents to their tax returns. The regulations also expand slightly the required content of a statement certain taxpayers must submit with their returns to justify deductions for charitable contributions.
Affected Public: Private sector; businesses or other for-profits.
Estimated Annual Burden Hours: 250,000.

OMB Number: 1545–1876.
Type of Review: Extension without change of a currently approved collection.
Title: REG–166012–02 (NPRM) National Contracts; Contingent Nonperiodic Payments.
Abstract: The collection of information in the proposed regulations is in Sec. 1.446–3(g)(6)(vii) of the Income Tax Regulations, requiring Taxpayers to maintain in their books and records a description of the method used to determine the projected amount of a contingent payment, the projected payment schedules, and the adjustments taken into account under the proposed regulations. The information is required by the IRS to verify compliance with section 446 of the Internal Revenue Code and the method of accounting described in Sec. 1.446–3(g)(6).
Affected Public: Private sector; businesses or other for-profits.
Estimated Annual Burden Hours: 25,500.

OMB Number: 1545–2033.
Type of Review: Extension without change of a currently approved collection.
Title: Notice 2006–83, Chapter 11 Bankruptcy Cases.
Abstract: The IRS needs bankruptcy estates and individual chapter 11 debtors to allocate post-petition income and tax withholding between the estate and the debtor. The IRS will use the information in administering the internal revenue laws. Respondents will be individual debtors and their bankruptcy estates for chapter 11 cases filed after October 16, 2005.
Affected Public: Individuals or households.
Estimated Annual Burden Hours: 1,500.

OMB Number: 1545–2183.
Type of Review: Extension without change of a currently approved collection.
Title: REG–209006–89—Transfers by Domestic Corporations That Are Subject to Section 367(a)(5); Distributions by Domestic Corporations That Are Subject to Section 1248(f) (TD 9614 & 9615).
Abstract: The income tax regulations under section 367(a) reflect changes made by the Technical and Miscellaneous Corrections Act of 1988. Section 367(a)(5) provides that a transfer of assets to a foreign corporation in an exchange described in section 361 is subject to section 367(a)(1), unless certain ownership requirements and other conditions are met.
Affected Public: Private sector; businesses or other for-profits.
Estimated Annual Burden Hours: 3,260.

Dawn D. Wolfgang,
Treasury PRA Clearance Officer.

[FR Doc. 2013–17911 Filed 7–24–13; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–11

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit.

DATES: Written comments should be received on or before September 23, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Sara Covington, at Internal Revenue Service, room 6129, 1111 Constitution

Avenue NW., Washington, DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit.

OMB Number: 1545–2173.

Notice Number: Form W–11

Abstract: This form was created in response to the Hiring Incentives to Restore Employment (HIRE) Act, which was signed on March 18, 2010. The form was developed as a template for the convenience of employers who must collect affidavits from qualifying employees. The form is not filed, rather an employer must retain the affidavit in order to justify claiming certain HIRE Act benefits.

Current Actions: Extension of currently approved collection. There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 100,000.

Estimated Average Time Per Respondent: 2 hrs., 16 mins.

Estimated Total Annual Burden Hours: 227,000 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 18, 2013.

Allan Hopkins,

IRS Tax Analyst.

[FR Doc. 2013–17854 Filed 7–24–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8874–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8874–A, Notice of Qualified Equity Investment for New Markets Credit.

DATES: Written comments should be received on or before September 23, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice of Qualified Equity Investment for New Markets Credit.

OMB Number: 1545–2065.

Form Number: 8874–A.

Abstract: New modernized e-file return for partnerships. Internal Revenue Code Sections 6109 and 6103.w code section 45N. 45N was added by section 405 of the Tax Relief and Health Care Act of 2006. The new form provides a means for the qualified mining company to compute and claim the credit.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individual or households, business or other for-profit.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 5 hours and 26 minutes.

Estimated Total Annual Burden Hours: 2,715.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 2013.

Allan Hopkins,

IRS Tax Analyst.

[FR Doc. 2013–17855 Filed 7–24–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2004–35

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2004–35, Late Spousal S Corp Consents in Community Property States.

DATES: Written comments should be received on or before September 23, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Sara Covington at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at. *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Late Spousal S Corp Consents in Community Property States.

OMB Number: 1545–1886.

Revenue Procedure Number: Revenue Procedure 2004–35.

Abstract: Revenue Procedure 2004–35 allows for the filing of certain late shareholder consents to be an S Corporation with the IRS Service Center.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Annual Average Time per Respondent: 1 hour.

Estimated Total Annual Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 16, 2013.

Allan Hopkins,

IRS Tax Analyst.

[FR Doc. 2013–17853 Filed 7–24–13; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of State

22 CFR Part 121

Department of Commerce

Bureau of Industry and Security

15 CFR Part 774

Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XI. and Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML); Proposed Rules

DEPARTMENT OF STATE

22 CFR Part 121

RIN 1400–AD25

[Public Notice 8388]

Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XI

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: As part of the President's Export Control Reform effort, the Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to revise Category XI (Military Electronics) of the U.S. Munitions List (USML) to describe more precisely the articles warranting control on the USML. The proposed revision of USML Category XI was first published as a proposed rule on November 28, 2012, for public comment. The Administration has decided to publish this regulation again in proposed form to allow for public feedback on changes made to the rule and for the Department of State to request further input from the public on specific matters of concern. The revisions contained in this rule are part of the Department of State's retrospective plan under E.O. 13563.

DATES: The Department of State will accept comments on this proposed rule until September 9, 2013.

ADDRESSES: Interested parties may submit comments within 45 days of the date of publication by one of the following methods:

- *Email: DDTCResponseTeam@state.gov* with the subject line, ''ITAR Amendment—Category XI.''
- *Internet:* At *www.regulations.gov,* search for this notice by using this rule's RIN (1400–AD25).

Comments received after that date will be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls Web site at *www.pmddtc.state.gov.* Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via *www.regulations.gov* are immediately available for public inspection.

FOR FURTHER INFORMATION CONTACT: Ms. Sarah J. Heidema, Acting Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2809; email *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, USML Category XI. The Department of State's full retrospective plan can be accessed at *http://www.state.gov/documents/organization/181028.pdf.*

SUPPLEMENTARY INFORMATION: The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The items subject to the jurisdiction of the ITAR, *i.e.,* ''defense articles'' and ''defense services,'' are identified on the ITAR's U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (''EAR,'' 15 CFR parts 730–774, which includes the Commerce Control List (CCL) in Supplement No. 1 to part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on exports and reexports. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other set of regulations are subject to the EAR.

All references to the USML in this rule are to the list of defense articles controlled for the purpose of export or temporary import pursuant to the ITAR, and not to the defense articles on the USML that are controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for the purpose of permanent import under its regulations. *See* 27 CFR part 447. Pursuant to section 38(a)(1) of the Arms Export Control Act (AECA), all defense articles controlled for export or import are part of the USML under the AECA. For the sake of clarity, the list of defense articles controlled by ATF for the purpose of permanent import is the U.S. Munitions Import List (USMIL). The transfer of defense articles from the ITAR's USML to the EAR's CCL for the purpose of export control does not affect the list of defense articles controlled on the USMIL under the AECA for the purpose of permanent import.

Export Control Reform Update

Pursuant to the President's Export Control Reform (ECR) initiative, the Department has published proposed revisions to thirteen USML categories and has revised four USML categories to create a more positive control list and eliminate, where possible, ''catch all'' controls. The Department, along with the Departments of Commerce and Defense, reviewed the public comments the Department received on the proposed rules and has, where appropriate, revised the rules. The Department continues to review the remaining USML categories and will publish them as proposed rules in the coming months.

For discussion of public comments relevant to the two USML categories that have been published as final rules, please *see* ''Amendment to the International Traffic in Arms Regulations: Initial Implementation of Export Control Reform,'' published April 16, 2013 (78 FR 22740). The aforementioned notice also contained policies and procedures regarding the licensing of items moving from the export jurisdiction of the Department of State to the Department of Commerce, a definition for specially designed, and responses to public comments and changes to other sections of the ITAR that affect the categories discussed in this rule.

Pursuant to ECR, the Department of Commerce has been publishing revisions to the EAR, including various revisions to the CCL. Revision of the USML and CCL are coordinated so there is uninterrupted regulatory coverage for items moving from the jurisdiction of the Department of State to that of the Department of Commerce. For the Department of Commerce's companion to this rule, please *see,* ''Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML),'' elsewhere in this edition of the **Federal Register**.

Proposed Changes in This Rule

The Department proposes the following changes to the ITAR with this rule: (i) Revision of USML Category XI (Military Electronics); and (ii) inclusion in USML Category XI of the new licensing procedure for the export of items subject to the EAR that are to be exported with defense articles enumerated in this category.

Revision of USML Category XI

The revision of USML Category XI was first published as a proposed rule (RIN 1400–AD25) on November 28, 2012, for public comment (*see* 77 FR

70958). The comment period ended January 28, 2013. Thirty-six parties filed comments recommending changes within the established comment period, which were reviewed and considered by the Department and other agencies. Pursuant to this review, which included assessment of the public comments received for the Department of Commerce's companion rule published on the same day (*see* 77 FR 70945), the Administration has decided to publish these regulations again in proposed form, to allow for public feedback on additional proposed changes to the rules and for the Departments of State and Commerce to request further input from the public on specific matters of concern. In addition, because of the frequency the term ''specially designed'' is used in the regulation, and because at the time of the public comment period there was not a final version of the term available for application, certain commenting parties expressed concern regarding the ability to fully assess the changes to this category. With the publication of the specially designed definition (*see* 78 FR 22740), these concerned parties may now apply the definition in their analysis of the proposed revision to the military electronics controls.

The Department received proposals for alternative phrasing and formatting of the regulatory text in USML Category XI. When the recommended changes added to the clarity of the regulation, did not alter the intended scope of the control, and were congruent with ECR objectives, the Department accepted them. In addition, the Department's assessment of many of the public comments has resulted in modifications throughout the regulation for more accurate description of the articles intended to be controlled.

One commenting party recommended that USML Category XI should explicitly exclude communications systems and equipment that have been configured for operational compatibility within military systems but that are comprised of commercial equipment and perform essentially civilian functions. Otherwise, the regulation would put U.S. companies at a disadvantage with foreign companies that are able to export such products without restriction. Similarly, other commenting parties expressed concerns that the revised regulation—in what was enumerated, as well as the parameters provided—would capture commercial articles. All such concerns were considered, and in certain cases, the regulation was revised. In light of the revised regulation, the Department requests that those who still believe it captures commercial articles to provide specific examples of such articles that would be covered by model or nomenclature, rather than the general comment that the regulation would capture commercial articles.

One commenting party was concerned that companies seeking to export systems comprised of both ITAR-controlled equipment and the new CCL 600 series items would need to obtain export authorizations from both the Departments of State and Commerce. The Department notes that ''dual licensing'' is not a matter arising from export control reform, as it has always been the case that systems may contain items with different export control jurisdictions. A feature of ECR, though, does address this issue. As described in ''Amendment to the International Traffic in Arms Regulations: Initial Implementation of Export Control Reform'' (78 FR 22740), USML categories will have a new (x) paragraph, the purpose of which is to allow for ITAR licensing for commodities, software, and technical data subject to the EAR, provided those commodities, software, and technical data are to be used in or with defense articles controlled on the USML that are identified on the same license application and are described in the purchase documentation submitted with the license application.

Three commenting parties recommended including separate paragraphs within USML Category XI for the control of software for the development, operation, test, and repair of articles enumerated in the category. The Department did not accept this recommendation, as paragraph (d) controls related technical data, and technical data includes software (*see* ITAR § 120.10).

One commenting party expressed concern that the Department relies heavily on use of the word ''military'' in the title of the category to describe the articles to be controlled therein, rather than adequately provide definitions, technical characteristics, or performance parameters to clearly define what makes the article ''military.'' The Department has, pursuant to a central tenet of the USML revision, endeavored to make USML Category XI into a ''positive'' listing of controlled articles. In instances where the reader does not agree, the Department welcomes specific recommendations for clarifying the controls.

One commenting party expressed concern that the proposed transfer of articles from the ITAR to the EAR may lead to jurisdictional uncertainty of the servicing of these articles. Generally, a defense service entails the furnishing of assistance regarding a defense article. Items that have traversed the USML–CCL divide are no longer ''defense articles,'' but are part of the ''600 series'' on the CCL. Servicing these items will not require an authorization from the Department. As part of ECR, the Department has published a proposed revision of the defense services definition in April 2011 (*see* 76 FR 20590), and again in May 2013 (*see* 78 FR 31444).

One commenting party recommended that articles not be covered by USML Category XI if the specified control parameters are achieved by international providers, for there will not be any critical military or intelligence advantage to the United States to provide ITAR control for these articles. While the determination whether an article provides a critical military or intelligence advantage and is exclusively available from the United States are important criteria for determining USML control, they are not the only ones. For example, although certain bombs are available from many countries, the Department believes these articles still warrant control on the USML.

One commenting party recommended the Department control ''store management systems not capable of firing weapons'' in USML Category XI(a). The Department requests that the commenting party clarify the article recommended for enumeration in USML Category XI, and provide the rationale for its control.

The Department did not accept the recommendation of one commenting party to revise paragraph (a)(1)(i)(D) to cover faster than real-time processing, as it was not the intention to control post-processing systems.

Several commenting parties recommended changes to the criteria listed in paragraphs (a)(1)(i)(A) through (D), on the basis that commercial articles would otherwise be covered. The Department notes that the criteria in (A) through (D) are modified by the criteria of paragraph (a)(1)(i). However, the Department has made clarifying edits to this paragraph.

The Department accepted the recommendation of two commenting parties to add the term ''systems'' to the header introductions of paragraphs that enumerated systems for control. The Department agrees that doing so would better describe the articles controlled in those paragraphs.

The Department received recommendations from two commenting parties to define the term ''target,'' as it is used frequently in paragraph (a)(3) of

the regulation. The Department believes a definition for this term is unnecessary, as the focus of the controls is the capabilities of the described articles rather than the character of targets against which the capabilities are applied.

In response to one commenting party's recommendation, the Department clarifies that the meaning of the word ''type'' in the paragraph controlling radar employing non-cooperative target recognition is that provided in 14 CFR 1.1.

One commenting party recommended equipment not designed to meet TEMPEST standards, but subsequently tested and certified to meet the standard, not be controlled on the USML. The Department does not believe that an entity can design, rate, certify, or otherwise specify or describe equipment to be in compliance with U.S. Government TEMPEST requirements without the help of the designer or manufacturer.

In response to recommendations and concerns of commenting parties, the Department has revised paragraph (a)(7) so that it does not apply to equipment or systems in production, to remove the word ''devices,'' to allow for other funding authorizations besides ''contract,'' and to provide a future effective date. The Department notes that the paragraph is meant to control articles not yet in existence, but provides limitations to the scope of the control. While it appreciates that such a control is not ''positive'' in aspect, the Department believes it is good regulatory practice to control as a defense article the fruits of a Department of Defense-private industry arrangement the stated purpose of which is to create a defense article.

In response to recommendations and concerns of commenting parties, the Department has revised paragraph (b) to remove ''security purposes'' as a reason for control, remove as an example systems or equipment that use burst techniques because these articles are covered in paragraph (a)(5)(v), and more clearly identify the enumerated articles as examples of articles controlled therein.

Two commenting parties requested clarification of how the articles controlled in paragraph (c) relate to articles enumerated in paragraph (a). The intent of paragraph (c) is to control the enumerated parts, components, accessories, attachments, and associated equipment regardless of whether they relate to articles enumerated in paragraph (a) or any other paragraph in USML Category XI, or to items on the CCL.

One commenting party recommended the inclusion of the phrase, ''except for such items as are in normal commercial use,'' in paragraph (c). The Department's intent is to not list any articles in that paragraph that have commercial application, and requests specific identification of such articles that would be captured, but does not believe use of the phrase would be helpful.

In response to recommendations and concerns of commenting parties, the Department has revised the controls for printed circuit boards and patterned multichip modules, providing each with a separate subparagraph, and notes that jurisdiction of a printed circuit board or patterned multichip module should follow the jurisdiction of the article for which it is designed, as opposed to the jurisdiction of the overall system into which it is incorporated.

As it has proposed for other USML categories, and for the first proposed revision of USML Category XI, the Department is to add a new ''(x) paragraph'' to this category, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category XI *and* are described in the purchase documentation submitted with the application.

Additional Changes

A proposed definition for the term ''equipment'' was included in the first USML Category XI proposed rule. That definition will be included in a future final rule.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA). Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department is publishing this rule with a 45-day provision for public comment and without prejudice to its determination that controlling the import and export of defense services is a foreign affairs function. As noted above, and also without prejudice to the Department position that this rulemaking is not subject to the APA, the Department previously published a related Advance Notice of Proposed Rulemaking (RIN 1400–AD25) and accepted comments for 60 days.

Regulatory Flexibility Act

Since the Department is of the opinion that this proposed rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (the ''Act''), a ''major'' rule is a rule that the Administrator of the OMB Office of Information and Regulatory Affairs finds has resulted or is likely to result in (1) an annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

The Department does not believe this rulemaking will have an annual effect on the economy of $100,000,000 or more. Articles that are being removed from coverage in the U.S. Munitions List categories contained in this rule will still require licensing for export, but from the Department of Commerce. While the licensing regime of the Department of Commerce is more flexible than that of the Department of State, it is not expected that the change in jurisdiction of these articles will result in an export difference of $100,000,000 or more.

The Department also does not believe that this rulemaking will result in a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions, or have significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

Executive Orders 12372 and 13132

This proposed rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this proposed rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this proposed rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess 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, distributed impacts, and equity). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. These rules have been designated ''significant regulatory actions,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this proposed rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

The Department of State has reviewed this proposed rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this proposed rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the provisions of Executive Order 13175 do not apply to this proposed rulemaking.

Paperwork Reduction Act

Following is a listing of approved collections that will be affected by revision, pursuant to the President's Export Control Reform (ECR) initiative, of the U.S. Munitions List (USML) and the Commerce Control List. The list of collections and the description of the manner in which they will be affected pertains to revision of the USML in its entirety, not only to the category published in this rule:

(1) Statement of Registration, DS–2032, OMB No. 1405–0002. The Department estimates that between 3,000 and 5,000 of the currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of between 6,000 and 10,000 hours annually, based on a revised time burden of two hours to complete a Statement of Registration.

(2) Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, DSP–5, OMB No. 1405–0003. The Department estimates that there will be 35,000 fewer DSP–5 submissions annually following full revision of the USML. This would result in a burden reduction of 35,000 hours annually. In addition, the DSP–5 will allow respondents to select USML Category XIX, a newly-established category, as a description of articles to be exported.

(3) Application/License for Temporary Import of Unclassified Defense Articles, DSP–61, OMB No. 1405–0013. The Department estimates that there will be 200 fewer DSP–61 submissions annually following full revision of the USML. This would result in a burden reduction of 100 hours annually. In addition, the DSP–61 will allow respondents to select USML Category XIX, a newly-established category, as a description of articles to be temporarily imported.

(4) Application/License for Temporary Export of Unclassified Defense Articles, DSP–73, OMB No. 1405–0023. The Department estimates that there will be 800 fewer DSP–73 submissions annually following full revision of the USML. This would result in a burden reduction of 800 hours annually. In addition, the DSP–73 will allow respondents to select USML Category XIX, a newly-established category, as a description of articles to be temporarily exported.

(5) Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data, DSP–6, –62, –74, –119, OMB No. 1405–0092. The Department estimates that there will be 2,000 fewer amendment submissions annually following full revision of the USML. This would result in a burden reduction of 1,000 hours annually. In addition, the amendment forms will allow respondents to select USML Category XIX, a newly-established category, as a description of the articles that are the subject of the amendment request.

(6) Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements, DSP–5, OMB No. 1405–0093. The Department estimates that there will be 1,000 fewer agreement submissions annually following full revision of the USML. This would result in a burden reduction of 2,000 hours annually. In addition, the DSP–5, the form used for the purposes of electronically submitting agreements, will allow respondents to select USML Category XIX, a newly-established category, as a description of articles to be exported.

(7) Maintenance of Records by Registrants, OMB No. 1405–0111. The requirement to actively maintain records pursuant to provisions of the International Traffic in Arms Regulations (ITAR) will decline commensurate with the drop in the number of persons who will be required to register with the Department pursuant to the ITAR. As stated above, the Department estimates that between 3,000 and 5,000 of the currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of between 60,000 and 100,000 hours annually. However, the ITAR does provide for the maintenance of records for a period of five years. Therefore, persons newly relieved of the requirement to register with the Department may still be required to maintain records.

(8) Export Declaration of Defense Technical Data or Services, DS–4071, OMB No. 1405–0157. The Department estimates that there will be 2,000 fewer declaration submissions annually following full revision of the USML. This would result in a burden reduction of 1,000 hours annually.

List of Subjects

22 CFR 121

Arms and munitions, Classified information, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 121, is proposed to be amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

■ 1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 121.1 is amended by revising U.S. Munitions List Category XI to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category XI—Military Electronics

(a) Electronic equipment and systems not included in Category XII of the U.S. Munitions List, as follows:

* (1) Underwater hardware, equipment, or systems, as follows:

(i) Active or passive acoustic array sensing systems or acoustic array equipment capable of real-time processing that survey or detect, and also track, localize (*i.e.,* determine range and bearing), classify, or identify surface vessels, submarines, other undersea vehicles, torpedoes, or mines, having any of the following:

(A) Multi-static capability;

(B) Operating frequency less than 20 kHz; or

(C) Operating bandwidth greater than 10 kHz;

(ii) Underwater single acoustic sensor system that distinguishes tonals and locates the origin of the sound;

(iii) Non-acoustic systems that survey or detect, and also track, localize, classify, or identify surface vessels, submarines, other undersea vehicles, torpedoes, or mines;

Note to paragraph (a)(1)(iii): Equipment controlled in ECCN 5A001.b.1 is not included.

(iv) Acoustic modems, networks, and communications equipment with real-time adaptive compensation or employing Low Probability of Intercept (LPI);

Note to paragraph (a)(1)(iv): Adaptive compensation is the capability of an underwater modem to assess the water conditions to select the best algorithm to receive and transmit data.

(v) Low Frequency/Very Low Frequency (LF/VLF) electronic modems, routers, interfaces, and communications equipment specially designed for submarine communications; or

(vi) Autonomous systems and equipment that enable cooperative sensing and engagement by fixed (bottom mounted/seabed) or mobile Autonomous Underwater Vehicles (AUVs);

* (2) Underwater acoustic countermeasures or counter-countermeasures systems or equipment;

* (3) Radar systems and equipment, as follows:

(i) Airborne radar that maintains positional state of an object of interest in a received radar signal through time;

(ii) Synthetic Aperture Radar (SAR) incorporating image resolution less than (better than) 0.3 m, or incorporating Coherent Change Detection (CCD) with geo-registration accuracy less than (better than) 0.3 m, not including concealed object detection equipment operating in the frequency range from 30 GHz to 3,000 GHz and having a spatial resolution of 0.5 milliradians up to and including 1 milliradians at a standoff distance of 100 m;

(iii) Inverse Synthetic Aperture Radar (ISAR);

(iv) Radar that geodetically-locates (*i.e.,* geodetic latitude, geodetic longitude, and geodetic height) with a target location error 50 (TLE50) less than or equal to 10 m at ranges greater than 1 km;

(v) Any ocean surface surveillance radar with either a product of transmit peak power times antenna gain divided by minimum detectable signal of >165 dB for a receiver bandwidth greater than 10 MHz or >195dB for a receiver bandwidth less than 10 MHz, or a capability to distinguish a target of <10 dBsm from sea clutter with a false alarm rate of 10^{-6} or better in sea state 3 or higher, or both;

(vi) Sea surveillance/navigation radar with free space detection of 1 square meter radar cross section (RCS) target at 20 nautical miles (nmi) or greater range;

(vii) Air surveillance radar with free space detection of 1 square meter RCS target at 85 nmi or greater range, scaled to RCS values as RCS to the ¼ power;

(viii) Air surveillance radar with free space detection of 1 square meter RCS target at an altitude of 65,000 feet and an elevation angle greater than 20 degrees (*i.e.,* counter-battery);

(ix) Air surveillance radar with multiple elevation beams, phase or amplitude monopulse estimation, or 3D height-finding;

(x) Air surveillance radar with a beam solid angle less than or equal to 16 degrees^2 that performs free space tracking of 1 square meter RCS target at a range greater or equal to 25 nmi with revisit rate greater or equal to ⅓ Hz;

(xi) Instrumentation radar for anechoic test facility or outdoor range that maintains positional state of an object of interest in a received radar signal through time or provides measurement of RCS of a static target less than or equal to −minus 10dBsm, or RCS of a dynamic target;

(xii) Radar incorporating pulsed operation with electronics steering of transmit beam in elevation and azimuth;

(xiii) Radar with mode(s) for ballistic tracking or ballistic extrapolation to source of launch or impact point of articles controlled in USML Categories III or IV;

(xiv) Active protection radar and missile warning radar with mode(s) implemented for detection of incoming munitions;

(xv) Over the horizon high frequency sky-wave (ionosphere) radar;

(xvi) Radar that detects a moving object through a physical obstruction at distance greater than 0.2 m from the obstruction;

(xvii) Radar having moving target indicator (MTI) or pulse-Doppler processing where any single Doppler filter provides a normalized clutter attenuation of greater than 50dB;

Note to paragraph (a)(3)(xvii): ''Normalized clutter attenuation'' is defined as the reduction in the power level of received distributed clutter when normalized to the thermal noise level.

(xviii) Radar having electronic protection (EP) or electronic counter-countermeasures (ECCM) other than manual gain control, automatic gain control, radio frequency selection, constant false alarm rate, and pulse repetition interval jitter;

(xix) Radar employing electronic attack (EA) mode(s) using the radar transmitter and antenna;

(xx) Radar employing electronic support (ES) mode(s) (*i.e.,* the ability to use a radar system for ES purposes in one or more of the following: as a high-gain receiver, as a wide-bandwidth receiver, as a multi-beam receiver, or as part of a multi-point system);

(xxi) Radar employing non-cooperative target recognition (NCTR) (*i.e.,* the ability to recognize a specific platform type without cooperative action of the target platform);

(xxii) Radar employing automatic target recognition (ATR) (*i.e.,* recognition of target using structural features (*e.g.,* tank versus car) of the target with system resolution better than (less than) 0.3 m;

(xxiii) Radar that sends interceptor guidance commands or provides illumination keyed to an interceptor seeker;

(xxiv) Radar employing waveform generation for LPI other than frequency modulated continuous wave (FMCW) with linear ramp modulation;

(xxv) Radar that sends and receives communications;

(xxvi) Radar that tracks or discriminates ballistic missile warhead from debris or countermeasures;

(xxvii) Bi-static/multi-static radar that exploits greater than 125 kHz bandwidth and is lower than 2 GHz center frequency to passively detect or track using radio frequency (RF) transmissions (*e.g.,* commercial radio or television stations);

(xxviii) Radar target generators, projectors, or simulators specially designed for radars controlled by this category; or

(xxix) Radar and laser radar systems specially designed for defense articles in paragraph (a)(1) of USML Category IV or paragraphs (a)(5), (a)(6), or (a)(13) of USML Category VIII (MT if specially designed for rockets, space launch vehicles, missiles, drones, or unmanned aerial vehicles capable of delivering a payload of at least 500 kg to a range of at least 300 km);

Note 1 to paragraph (a)(3)(xxix): Laser radar systems embody specialized transmission, scanning, receiving, and signal processing techniques for utilization of lasers for echo ranging, direction finding, and discrimination of targets by location, radial speed, and body reflection characteristics.

Note 2 to paragraph (a)(3)(xxix): ''Range'' is the maximum distance that the specified rocket system is capable of traveling in the mode of stable flight as measured by the projection of its trajectory over the surface of the Earth. The maximum capability based on the design characteristics of the system, when fully loaded with fuel or propellant, will be taken into consideration in determining range. The range for rocket systems will be determined independently of any external factors such as operational restrictions, limitations imposed by telemetry, data links, or other external constraints. For rocket systems, the range will be determined using the trajectory that maximizes range, assuming International Civil Aviation Organization (ICAO) standard atmosphere with zero wind. ''Payload'' is the total mass that can be carried or delivered by the specified rocket, SLV, or missile that is not used to maintain flight.

Note to paragraph (a)(3): This category does not control: (1) Systems or equipment that require aircraft transponders in order to meet control parameters; (2) precision approach radar (PAR) equipment conforming to ICAO standards and employing electronically steerable linear (1-dimensional) arrays or mechanically positioned passive antennae; and (3) Radio Altimeter equipment conforming to FAA TSO C87.

* (4) Electronic Combat (*i.e.,* Electronic Warfare) systems and equipment, as follows:

(i) ES systems and equipment that search for, intercept and identify, or locate sources of intentional or unintentional electromagnetic energy specially designed to provide immediate threat detection, recognition, targeting, planning, or conduct of future operations;

Note to paragraph (a)(4)(i): ES provides tactical situational awareness, automatic cueing, targeting, electronic order of battle planning, electronic intelligence (ELINT), communication intelligence (COMINT), or signals intelligence (SIGINT).

(ii) Systems and equipment that detect and automatically discriminate acoustic energy emanating from weapons fire (*e.g.,* gunfire, artillery, rocket propelled grenades, or other projectiles), determining location or direction of weapons fire in less than two seconds from receipt of event signal, and able to operate on-the-move (*e.g.,* operating on personnel, land vehicles, sea vessels, or aircraft while in motion); or

(iii) Systems and equipment specially designed to introduce extraneous or erroneous signals into radar, infrared based seekers, electro-optic based seekers, radio communication receivers, navigation receivers, or that otherwise hinder the reception, operation, or effectiveness of adversary electronics (*e.g.,* active or passive electronic attack, electronic countermeasure, electronic counter-countermeasure equipment, jamming, and counter jamming equipment);

Note to paragraph (a)(4)(iii): This paragraph does not control mobile telecommunications jamming equipment determined to be subject to the EAR via a commodity jurisdiction determination (*see* § 120.4 of this subchapter).

* (5) Command, control, and communications (C^3); command, control, communications, and computers (C^4); command, control, communications, computers, intelligence, surveillance, and reconnaissance (C^4ISR); and identification systems or equipment, that:

(i) Are specially designed to integrate, incorporate, network, or employ defense articles controlled in this subchapter;

(ii) Incorporate U.S. Government identification friend or foe (IFF) Modes 4 or 5;

(iii) Implement active or passive ECCM used to counter acts of communication disruption (*e.g.,* radios that incorporate HAVE QUICK I/II, SINCGARS, SATURN);

(iv) Specially designed, rated, certified, or otherwise specified or described to be in compliance with U.S. Government NSTISSAM TEMPEST 1–92 standards or CNSSAM TEMPEST 01–02, to implement techniques to suppress compromising emanations of information bearing signals; or

(v) Transmit voice or data signals specially designed to elude electromagnetic detection;

(6) [Reserved]

(7) Developmental electronic equipment or systems funded by the Department of Defense via contract or other funding authorization;

Note 1 to paragraph (a)(7): This paragraph does not control developmental electronic systems or equipment (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination (*see* § 120.4 of this subchapter), or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

Note 2 to paragraph (a)(7): Note 1 does not apply to defense articles enumerated on the USML, whether in production or development.

Note 3 to paragraph (a)(7): This paragraph is applicable only to those contracts and funding authorizations that are dated one year or later following the publication of [insert name of final rule incorporating revision of USML Category XI].

(8) Unattended ground sensor (UGS) systems or equipment having all of the following:

(i) Automatic target detection;

(ii) Automatic target tracking, classification, recognition, or identification;

(iii) Self-forming or self-healing networks; and

(iv) Self-localization for geo-locating targets;

(9) Electronic sensor systems or equipment for non-acoustic anti-submarine warfare (ASW) or mine warfare (*e.g.,* magnetic anomaly detectors (MAD), electric-field, and electromagnetic induction);

(10) Electronic sensor systems or equipment for detection of concealed weapons, having a standoff detection range of greater than 45 m for personnel or detection of vehicle-carried weapons;

(11) Test sets specially designed for testing counter radio controlled improvised explosive device (C–RCIED) electronic warfare (CREW) systems; or

(12) Direction finding equipment for determining bearings to specific electromagnetic sources or terrain characteristics specially designed for defense articles in paragraph (a)(1) of USML Category IV or paragraphs (a)(5), (a)(6), or (a)(13) of USML Category VIII (MT if specially designed for rockets, SLVs, missiles, drones, or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km. *See* note 2 to paragraph (a)(3)(xxix) of this category).

Note 1 to paragraph (a): The term ''Low Probability of Intercept'' used in this paragraph and elsewhere in this category is defined as a class of measures that disguise, delay, or prevent the interception of acoustic or electromagnetic signals. LPI techniques can involve permutations of power management, energy management, frequency variability, out-of-receiver-frequency band, low-side lobe antenna, complex waveforms, and complex scanning. LPI is also referred to as Low Probability of Intercept, Low Probability of Detection, and Low Probability of Identification.

Note 2 to paragraph (a): Paragraphs (a)(3)(xxix) and (a)(12) include terrain

contour mapping equipment, scene mapping and correlation (both digital and analogue) equipment, Doppler navigation radar equipment, passive interferometer equipment, and imaging sensor equipment (both active and passive).

* (b) Electronic systems or equipment specially designed for intelligence purposes that collects, surveys, monitors, or exploits the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.

Note to paragraph (b): Examples of articles within the scope of this paragraph include:

(1) Direction finding systems for non-cooperative objects that have an angle of arrival (AOA) accuracy better than (less than) two degrees root mean square (RMS) and ''specially designed'' for applications other than navigation;

(2) systems and equipment specially designed for measurement and signature intelligence (MASINT); and

(3) technical surveillance counter-measure (TSCM) or electronic surveillance equipment and counter electronic surveillance equipment (including spectrum analyzers) for the RF/microwave spectrum having all of the following:

(i) A sweep or scan speed exceeding 250 MHz per second;

(ii) a built-in signal analysis capability;

(iii) a volume of less than 1 cubic foot;

(iv) record time-domain or frequency-domain digital signals other than single trace spectral snapshots; and

(v) display time-vs-frequency domain (*e.g.,* waterfall or rising raster).

(c) Parts, components, accessories, attachments, and associated equipment, as follows:

(1) Application Specific Integrated Circuits (ASICs) and Programmable Logic Devices (PLD) programmed for defense articles in this subchapter;

Note 1 to paragraph (c)(1): ASICs and PLDs programmed for 600 series items are controlled in ECCN 3A611.f.

Note 2 to paragraph (c)(1): Unprogrammed PLDs are not controlled by this paragraph.

(2) Printed Circuit Boards (PCBs) and populated circuit card assemblies for which the layout is specially designed for defense articles in this subchapter;

Note to paragraph (c)(2): PCBs and populated circuit card assemblies for which the layout is specially designed for 600 series items are controlled in ECCN 3A611.g.

(3) Multichip modules for which the pattern or layout is specially designed for defense articles in this subchapter;

Note to paragraph (c)(3): Multichip modules for which the pattern or layout is specially designed for 600 series items are controlled in ECCN 3A611.h.

(4) Transmit/receive modules or transmit modules that have any two perpendicular sides, with either length d (in cm) equal to or less than 15 divided by the lowest operating frequency in GHz [$d \leq 15cm*GHz/f_{GHz}$], that incorporate a Monolithic Microwave Integrated Circuit (MMIC) or discrete RF power transistor and a phase shifter or phasers;

(5) High-energy storage capacitors with a repetition rate of 6 discharges or more per minute and full energy life greater than or equal to 10,000 discharges, at greater than 0.2 Amps per Joule peak current, that have any of the following:

(i) Volumetric energy density greater than or equal to 1.5 J/cc; or

(ii) Mass energy density greater than or equal to 1.3 kJ/kg;

(6) Radio frequency circulators of any dimension equal to or less than one quarter (¼) wavelength of the highest operating frequency and isolation greater than 30dB;

(7) Polarimeter that detects and measures polarization of radio frequency signals within a single pulse;

(8) Digital radio frequency memory (DRFM) with RF instantaneous input bandwidth greater than 400 MHz, and 4 bit or higher resolution and specially designed parts and components therefor;

(9) Vacuum electronic devices, as follows:

(i) Multiple electron beam or sheet electron beam devices rated for operation at frequencies of 16 GHz or above, and with a saturated power output greater than 10,000 W (70 dBm) or a maximum average power output greater than 3,000 W (65 dBm); or

(ii) Cross-field amplifiers with a gain of 15 dB to 17 dB or a duty factor greater than 5%;

(10) Antenna, and specially designed parts and components therefor, that:

(i) Electronically steers both angular beams and nulls with four or more elements with faster than 50 milliseconds beam switching;

(ii) Form adaptive null attenuation greater than 35 dB with convergence time less than 1 second;

(iii) Detect signals across multiple RF bands with matched left hand and right hand spiral antenna elements for determination of signal polarization; or

(iv) Determine signal angle of arrival less than two degrees (*e.g.,* interferometer antenna);

Note to paragraph (c)(10): This category does not control Traffic Collision Avoidance Systems (TCAS) equipment conforming to FAA TSO C–119c.

(11) Radomes or electromagnetic antenna windows that:

(i) Incorporate radio frequency selective surfaces;

(ii) Operate in multiple non-adjacent radar bands;

(iii) Incorporate a structure that is specially designed to provide ballistic protection from bullets, shrapnel, or blast;

(iv) Have a melting point greater than 1,300 °C and maintain a dielectric constant less than 6 at temperatures greater than 500 ° C;

(v) Are manufactured from ceramic materials with a dielectric constant less than 6 at any frequency from 100 MHz to 100 GHz (MT if usable in rockets, SLVs, or missiles capable of achieving a range greater than or equal to 300 km; or if usable in drones or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km. *See* note 2 to paragraph (a)(3)(xxix) of this category);

(vi) Maintain structural integrity at stagnation pressures greater than 6,000 pounds per square foot; or

(vii) Withstand combined thermal shock greater than 4.184×10^6 J/m^2 accompanied by a peak overpressure of greater than 50 kPa (MT if usable in rockets, SLVs, missiles, drones, or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km and usable in protecting against nuclear effects (*e.g.,* Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects). *See* note 2 to paragraph (a)(3)(xxix) of this category);

(12) Underwater sensors (acoustic vector sensors, hydrophones, or transducers) or projectors specially designed for systems controlled by paragraphs (a)(1) and (a)(2) of this category, having any of the following:

(i) a transmitting frequency below 10 kHz;

(ii) Sound pressure level exceeding 224 dB (reference 1 μPa at 1 m) for equipment with an operating frequency in the band from 10 kHz to 24 kHz inclusive;

(iii) Sound pressure level exceeding 235 dB (reference 1 μPa at 1 m) for equipment with an operating frequency in the band between 24 kHz and 30 kHz;

(iv) Forming beams of less than 1° on any axis and having an operating frequency of less than 100 kHz;

(v) Designed to operate with an unambiguous display range exceeding 5,120 m; or

(vi) Designed to withstand pressure during normal operation at depths exceeding 1,000 m and having transducers with any of the following:

(A) Dynamic compensation for pressure; or

(B) Incorporating other than lead zirconate titanate as the transduction element;

(13) Parts or components containing piezoelectric materials which are specially designed for underwater hardware, equipment, or systems controlled by paragraph (c)(11) of this category;

(14) Tuners having all of the following:

(i) An instantaneous bandwidth of 30 MHz or greater; and

(ii) A tuning speed of 300 microseconds or less to within 10 KHz of desired frequency;

(15) Electronic assemblies and components specially designed for rockets, SLVs, missiles, drones, or UAVs capable of achieving a range greater than or equal to 300 km and capable of operation at temperatures in excess of 125 °C (MT) (*See* note 2 to paragraph (a)(3)(xxix) of this category);

(16) Specially designed hybrid (combined analogue/digital) computers for modeling, simulation, or design integration of systems enumerated in paragraphs (a)(1), (d)(1), (d)(2), (h)(1), (h)(2), (h)(4), (h)(8), and (h)(9) of USML Category IV or paragraphs (a)(5), (a)(6) or (a)(13) of USML Category VIII (MT if for rockets, SLVs, missiles, drones, or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km or their subsystems. *See* note 2 to paragraph (a)(3)(xxix) of this category);

(17) Parts, components, or accessories specially designed for an information assurance/information security system or a radio controlled in this subchapter that modify its published properties (*e.g.,* frequency range, algorithms, waveforms, CODECs, or modulation/demodulation schemes); or

*(18) Any part, component, accessory, attachment, equipment, or system that (MT for those articles designated as such):

(i) Is classified;

(ii) Contains classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Is being developed using classified information (*see* § 120.10(a)(2) of this subchapter).

''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

Note to paragraph (c)(18)(ii): Parts and components captured by paragraph (c)(17)(ii) are limited to those that store, process, or transmit classified software.

(d) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (c) of this category and classified technical data directly related to items controlled in CCL ECCNs 3A611, 3B611, 3C611, and 3D611 and defense services using the classified technical data. (*See* § 125.4 of this subchapter for exemptions.) (MT for technical data and defense services related to articles designated as such.)

(e)–(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (*see* § 120.42 of this subchapter) used in or with defense articles controlled in this category.

Note to paragraph (x): Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (*see* § 123.1(b) of this subchapter).

* * * * *

Rose E. Gottemoeller,

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

[FR Doc. 2013–17556 Filed 7–24–13; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 120330233–3326–02]

RIN 0694–AF64

Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Proposed rule.

SUMMARY: This is the second proposed rule to describe how military electronics and certain superconducting and cryogenic equipment and related items the President determines no longer warrant control under the United States Munitions List (USML) would be controlled on the Commerce Control List (CCL). This proposed rule also would amend ECCNs 7A001 and 7A101 to apply the ''missile technology'' reason for control only to items in those ECCNs on the Missile Technology Control Regime (MTCR) Annex.

This action is one in a planned series of proposed rules that would implement the Administration's Export Control Reform Initiative by describing how certain types of articles would be controlled on the CCL after the President determines that the articles no longer warrant USML control. This proposed rule is being published in conjunction with a proposed rule from the Department of State, Directorate of Defense Trade Controls, which would amend the list of articles controlled by USML Category XI.

The revisions proposed in this rule are part of Commerce's retrospective plan under EO 13563 completed in August 2011. Commerce's full plan can be accessed at: *http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules.*

DATES: Comments must be received by September 9, 2013.

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

- *By the Federal eRulemaking Portal: http://www.regulations.gov.* The identification number for this rulemaking is BIS–2012–0045.
- By email directly to *publiccomments@bis.doc.gov.* Include RIN 0694–AF64 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AF64.

FOR FURTHER INFORMATION CONTACT: Brian Baker, Director, Electronics and Materials Division, Office of National Security and Technology Transfer Controls, (202) 482–5534, *brian.baker@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Export Control Reform Initiative

This proposed rule is part of the Administration's Export Control Reform Initiative, the objective of which is to protect and enhance U.S. national security interests. The Initiative began in August 2009 when President Obama directed the Administration to conduct a broad-based review of the U.S. export control system to identify additional ways to enhance national security. In April 2010, then-Secretary of Defense Robert M. Gates, describing the initial results of that effort, explained that fundamental reform of the U.S. export control system is necessary to enhance national security. Once the Department of State's International Traffic in Arms Regulations (ITAR) and its U.S. Munitions List (USML) are amended so that they control only the items that provide the United States with a critical military or intelligence advantage or otherwise warrant such controls, and the Export Administration Regulations (EAR) are amended to control military items that do not warrant USML controls, the U.S. export control system will enhance national security by (i) improving interoperability of U.S. military forces with allied countries, (ii) strengthening the U.S. industrial base by, among other things, reducing incentives for foreign manufacturers to design out and avoid U.S.-origin content and services, and (iii) allowing export control officials to focus government resources on transactions that pose greater concern.

Pursuant to section 38(f) of the Arms Export Control Act (AECA), the President is obligated to review the USML ''to determine what items, if any, no longer warrant export controls under'' the AECA. The President must report the results of the review to Congress and wait 30 days before removing any such items from the USML. The report must ''describe the nature of any controls to be imposed on that item under any other provision of law.'' 22 U.S.C. 2778(f)(1).

BIS has published and will continue to publish additional **Federal Register** notices containing proposed amendments to the CCL that describe proposed controls for additional categories of articles the President determines no longer warrant control under the USML. The State Department will publish concurrently proposed amendments to the USML that correspond to the BIS notices. BIS will also publish proposed rules to further align the CCL with the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies' (Wassenaar Arrangement) Munitions List (Wassenaar Arrangement Munitions List or WAML) and the Missile Technology Control Regime's (MTCR) Equipment, Software and Technology Annex (MTCR Annex).

Overview of This Proposed Rule

Following the structure set forth in the final rule entitled ''Revisions to the Export Administration Regulations: Initial Implementation of Export Control Reform'' (78 FR 22660, April 16, 2013) (''April 16 (initial implementation) rule''), this proposed rule describes BIS's proposal for controlling under the EAR's CCL certain military electronic equipment and related articles now controlled by the ITAR's USML Category XI, and equipment and related items in category ML20 of the WAML, which pertains to certain cryogenic and superconductive equipment. These items are currently controlled by ''catch all'' provisions of the ITAR's USML Categories VI, VII, VIII, and XV. Finally, this proposed rule would correct two ECCNs in CCL Category 7 to apply the ''missile technology'' reason for control only to items that are on the MTCR Annex.

This action re-proposes moving export control of certain military electronic equipment from the USML to the CCL. BIS originally proposed transferring the control of these items to the EAR in 2012, in a rule entitled, ''Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control under the United States Munitions List (USML)'' (77 FR 70945, November 28, 2012) (''November 28 (military electronics) rule''). That action was issued simultaneously with a proposed rule by the Department of State, entitled, ''Amendment to the International Traffic in Arms Regulations: Revisions of US Munitions List Category XI and Definition for 'Equipment' '' (77 FR 70958, November 28, 2012) (''State's November 28, 2012 (military electronics) rule'') (collectively, the ''November 28, 2012 (military electronics) rules''). The

provisions in this second proposed rule by BIS are based on a review of public comments to the November 28 (military electronics) rule, and on a review of USML Category XI and WAML category ML20 by the Department of Defense, which worked with the Departments of State and Commerce in preparing these proposed amendments. BIS is proposing this action a second time because the comments suggested changes from the original proposed rule that are sufficiently distinct from the November 28 (military electronics) rule to warrant providing them to the public for further review and to obtain public input on the feasibility of implementing the rule as re-proposed. The criteria used in this review are described in the November 28 (military electronics) rule. *See* 77 FR 70945.

The revisions proposed in this rule are part of Commerce's retrospective plan under EO 13563 completed in August 2011. Commerce's full plan can be accessed at: *http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules.*

Consistency of Controls

This proposed rule would alter the scope of ECCNs 3B611, 3E611, 9B620 and 9E620 from what was proposed in the November 28 (military electronics) rule. Upon review, BIS determined that standard elements for test, inspection, and production equipment ECCNs and for technology ECCNs would reduce the possibility of confusion. Accordingly, BIS adopted the elements ''development, production, repair, overhaul, or refurbishing'' for test, inspection, and production equipment ECCNs in the 600 series and adopted ''development, production, operation, installation, maintenance, repair, overhaul, or refurbishing'' for technology ECCNs in the 600 series (*see* 78 FR 40892, 40894, July 8, 2013). This proposed rule would include those elements in 3B611, 3E611, 9B620 and 9E620 to conform with that decision.

Need to Avoid Ambiguous Classifications or Inadvertent License Requirements

BIS recognizes that because electronics frequently are installed in some other commodity, they are particularly susceptible to ambiguous classification or classification under multiple entries on the CCL. For example, a given electronic device might also be viewed as a part for an aircraft, radar, computer, laser, or some other article. How the device is viewed might affect its classification on the CCL, which could, in turn, affect license requirements or licensing policy. BIS's intent is that the new ECCNs proposed here would not increase the number of destinations to which a license is required, alter the policy under which license application are reviewed, or create any apparent instances of an item that is subject to the EAR being covered by more than one ECCN. Parties who believe that they can identify instances where the effect of the proposed rule would be contrary to this intent are encouraged to identify those instances in a public comment on this proposed rule.

Relationship to April 16, Initial Implementation Rule

The April 16 (initial implementation) rule will become effective on October 15, 2013. Because any final rule resulting from this proposed rule would not become effective until after that date, this proposed rule and BIS's responses to the public comments on the November 28 (military electronics) rule discussed below are written as if the April 16 (initial implementation) rule were already effective. Accordingly, commenters on this proposed rule should become familiar with the April 16 (initial implementation) rule and take it into account in formulating their comments on this proposed rule. Although BIS encourages public understanding of the entire April 16 (initial implementation) rule, the provisions listed below are likely to be particularly useful because they provide background for understanding terms and concepts that are used extensively in this proposed rule and in the discussion of the public comments. The listed page numbers refer to pages in the **Federal Register** published on April 16, 2013.

- ''600 series:'' preamble discussion, pages 22661–22663 and 22691; regulatory text, page 22727.
- Definition of ''component:'' regulatory text, page 22727.
- Definitions of ''end item'' and ''part:'' regulatory text, page 22728.
- Definition of ''specially designed:'' preamble discussion, pages 22682–22691; regulatory text, pages 22728–22729.
- ''Dual licensing:'' preamble discussion, page 22664–22665; regulatory text, page 22707.
- License Exceptions TMP, RPL, GOV, TSU and STA: preamble discussion, pages 22669–22674; regulatory text, pages 22709–22720 and 22726.
- ''Order of review'': preamble discussion, page 22704; regulatory text, pages 22735–22736.

Public Comments on the November 28 (Military Electronics) Rule and BIS Responses

BIS received comments from 17 organizations and one individual, proposing a number of ideas for revising the proposed rule.

Comment: Several commenters expressed general approval of transferring some military items from the USML. As part of their comments, they noted that (i) electronic parts and components are rarely almost exclusively available from the United States; (ii) current USML requirements impose a heavy cost burden on low value parts and US manufacturers may thus be more inclined to continue making the parts if that burden is reduced; and (iii) the removal of a ''see-through'' rule on electronic parts and components will reduce the incentive for foreign customers in non-embargoed countries to refuse to buy US-origin parts. One commenter approved of BIS's use of ''specially designed'' in ''600 series'' ECCNs because it would help standardize the identification of which items are and are not controlled. One commenter noted that placing monolithic microware integrated circuit power amplifiers in 3A611.c and discrete power transistors in 3A611.d are positive moves that clearly define the articles covered.

Response: BIS agrees and these comments are consistent with the second proposed rule.

Comment: Some commenters expressed concern that the rule did not refer to a Department of Defense review process for low observable and counter low observable related items moving from the USML to the CCL.

Response: In accordance with Executive Order 12981, as amended, the Department of Defense has authority to review license applications submitted to the Department of Commerce. BIS expects that Department to continue existing review policies for any items referred to by these commenters that are added to the CCL. In any event, no change to the regulations is necessary to implement this policy.

Comment: A commenter recommended adding an interpretation to Part 770 clarifying that items subject to a parameter-based CCL entry will be controlled by such entry if the item meets the parameter at the time of export, and not by whether it has potential capability (*e.g.,* dormant capability) to meet the control, so long as the additional capability cannot be executed by the end-user without additional activity by the exporters. Exporters would be required to obtain

any necessary authorizations to activate such a capability for a customer.

Response: Items with characteristics that are within the scope of the parameters of a particular ECCN are classified under that ECCN. BIS believes that no change is needed to the regulatory text from what was published in the November 28 (military electronics) rule.

Comment: Commenters stated that more information about the order of precedence or order of review was needed for the public to be able to classify items reliably. Many items might be reasonably classified under a USML category or an ECCN, more than one ECCN, or more than one ECCN paragraph.

Response: BIS received comments along this line in response to other proposed rules. The April 16 (initial implementation) rule includes an order of review, which is intended to eliminate the possible uncertainty noted by these commenters.

Comment: Commenters expressed concern that moving items from the USML to the CCL would increase the number of licenses that some companies would need for two reasons.

First, in many instances, the Directorate of Defense Trade Controls (DDTC) in practice issues licenses covering items that are subject to the EAR, when they are being exported in conjunction with defense articles that are subject to the ITAR. The commenter suggested that these circumstances might increase the time needed to gain approval for transactions that require the export of both USML and CCL items, because BIS licenses generally take longer to obtain than DDTC licenses. The commenter proposed as a solution allowing DDTC to issue licenses for items on the CCL in such transactions. This commenter suggested that a formal process for DDTC to issue licenses for items that are subject to the EAR be authorized.

Second, license exceptions under the EAR do not apply to some transactions that would be exempt from license requirements under the ITAR. Two solutions were proposed. First, amend license exceptions under the EAR to make sure that they cover transactions that would qualify for an exemption under the ITAR. Second, create a new license exemption that authorizes using ITAR exemptions for transactions that are subject to the EAR.

Response: The potential problem of needing both a DDTC and a BIS license for a single transaction is sometimes referred to as the dual licensing issue. BIS's and DDTC's April 16 (initial implementation) rules address the dual licensing issue with a procedure for DDTC to issue licenses for items that are subject to the EAR in situations where a single transaction includes exports or reexports of items that are subject the ITAR and items that are subject to the EAR. BIS welcomes comments on whether these provisions effectively address the issues identified in the comments.

The April 16 (initial implementation) rule revises several EAR license exceptions to make them comparable to ITAR license exemptions. BIS believes that the second proposed solution—amending the EAR to allow use of ITAR license exemptions for transactions that are subject to the EAR—would create legal and policy complications that can be avoided by simply amending existing EAR license exceptions. BIS welcomes comments on whether the revisions to license exceptions in the April 16 (initial implementation) rule effectively address the issues identified in the comments with respect to military electronic items.

Comment: A commenter recommended several steps to deal with the expected increase in the number of license applications to be submitted to BIS, such as: Increase staffing levels; ''enhance'' the DOC licensing process to reduce cycle times; include reviewing agencies in efforts to streamline the license application review process; and leverage lessons learned and best practices from the Department of State, which has reduced processing time in recent years.

Response: BIS is taking these steps. No revision to the EAR is needed to do so.

Comments Concerning Proposed ECCNs 4A611, 5A611 and 6A611

Proposed ECCNs 4A611, 5A611 and 6A611 refer readers to ECCN 3A611. They are included to alert readers that military computers, military telecommunications equipment and military radars would be controlled by ECCN 3A611, a structure more similar to that of the USML, which controls all three in Category XI, than that of the CCL, which controls computers in Category 4, telecommunications equipment in Category 5, and radars in Category 6.

Comment: Commenters expressed a belief that following the USML pattern would make classification more difficult than would following the CCL pattern.

Response: This proposed rule republishes those three cross-reference ECCNs along with a fourth one: ECCN 7A613, which refers readers to 3A611 for military avionics and navigation items. BIS continues to seek comments on which pattern would be easier to understand and comply with. One pattern would create substantive ECCNs in five CCL Categories—Category 4 (computers), Category 5 (telecommunications), Category 6 (sensors and lasers), Category 7 (avionics), and Category 3 (all other military electronics not described on the USML). The other pattern would place all substantive control text for military electronics in Category 3 with cross references to Category 3 in Categories 4, 5, 6 and 7. The advantage of breaking the different types out among the categories is that they would be described in more detail and in the CCL categories that control similar dual-use items. The disadvantage would be that 20 new substantive 600 series ECCNs would need to be created that all contain essentially contain the same descriptions as compared to 4 new substantive and four cross reference ECCNs that would be required by the second alternative.

Comment: A commenter requested a six-month grace period to implement the changes that would be required by the proposed rule.

Response: BIS plans to make the final rule adding to the CCL military electronic systems the President determines no longer warrant control under the USML effective 180 days after publication.

Comment: One commenter noted that the EAR contain no definition of ''avionics,'' making the decision to classify an item under Category 7—Navigation and Avionics or Category 9—Aerospace and Propulsion, difficult. The commenter stated as an example that a control panel for anti-ice bleed air valves might belong under either Category 7 or Category 9, depending on whether it contains a digital circuit even though the function performed is the same.

Response: BIS is making no changes to this proposed rule in response to this comment, because it is outside the scope of the November 28 (military electronics) rule. However, BIS will look into ways to address elsewhere the issues raised by this commenter.

Comment: One commenter stated the policy implications of the phrase, ''parts and components n.e.s. in ECCNs 7A994 and 9A991.d,'' are unclear with the addition of the proposed definition of ''specially designed.'' The commenter noted that neither ECCN uses the term ''specially designed,'' and stated that the ECCNs have never been understood to control EAR99 items common to non-aircraft applications.

Response: BIS is making no changes to this proposed rule in response to this

comment because it is outside the scope of the November 28 (military electronics) rule. BIS does not intend that anything in this proposed rule or in the April 16 (initial implementation) rule make a currently EAR99 item controlled under either ECCN 7A994 or 9A991. BIS will look into ways to address elsewhere the issues raised by this commenter.

Comment: Several commenters expressed concern over use of the term ''specially designed'' in the November 28 (military electronics) rule when the final rule defining that term had not been published. The commenters noted that they could not analyze the impact of the term without knowing its precise language.

Response: The April 16 (initial implementation) rule included the definition of ''specially designed'' that will apply to this proposed rule has now been published. See 78 FR 22682–91, 22728–29.

Comment: Several commenters proposed features that they thought the definition of ''specially designed'' should have. These recommendations were:

- Include in subsection (a)(1) of the definition application-specific components of end items for which the control parameters or character can be ascertained;
- Restrict the ''necessary'' standard for components set forth in subsection (a)(2) to components for which there is no basis to assess the controlled parameters or character of the end item in which the component is incorporated;
- Create a note that provides an appropriate industry definition of ASICs;
- Capture the natural meaning of the term ''specially designed,'' and avoid overarching exclusions and exceptions; and
- Eliminate reference in subsection (b)(3) to ''form and fit'' for components of equivalent performance.

It is logical and feasible to tie the control of ''specially designed'' components to the related end-item, but only to the extent that the ''specially designed'' component is peculiarly responsible for the controlled parameters of the controlled character as a whole of the end item.

Form and fit adapted to a particular end item or special protective packaging adapted to the environment in which that end-item functions should not make a part or component specially designed for a particular end item if the function that the part or component performs is the same as that it would perform in some other end-item where a different form or fit is required, or such special protective packaging or housing is not needed.

Consider modifications to basic hardware as minor and, therefore not ''specially designed'' if they: (a) Are unclassified; (b) are not for the purpose of improving the item's resistance or hardness to nuclear radiation, nuclear electromagnetic pulse, or resistance to chemicals or biological agents controlled under the ITAR; and c) are not made to achieve special designated military properties (*e.g.,* special low observable, acoustic, electromagnetic properties, hot section technology for military gas turbine engines, or characteristics identified in the proposed Supplement No. 4 to Part 740 of the EAR).

Response: Following the closing comment period date for the November 28 (military electronics) rule, the April 16 (initial implementation) rule set forth the definition of ''specially designed.'' This definition provides that modifications to a part or component made solely to fit a particular commodity do not make the part or component specially designed. The definition also states that certain specific parts are not specially designed. The definition is not limited to parts or components that are peculiarly responsible for achieving the control parameters of the end item, nor does it exclude modifications or packaging applied to a part or component adapted to the environment in which the end-item performs. Although the notion of a short ''natural meaning'' definition is interesting, experience has indicated that determining the actual purpose for which something was designed is often difficult and can lead different readers to different conclusions based on the same sets of facts. BIS believes that the definition set forth in April 16 (initial implementation) rule provides a reasonable, repeatable, verifiable, and as certain as possible framework for determining which parts and components are and are not ''specially designed.'' However, BIS welcomes comments regarding the impact the term ''specially designed'' has on the ECCNs in this proposed rule.

Comment: One commenter recommended removing minor parts and components in normal commercial use to which minor modifications have been made from the catch-all paragraphs for the 600 series ECCNs, arguing that such common hardware does not warrant this level of control.

Response: BIS is not adopting this recommendation. License requirements on parts and components that are specially designed for military equipment, even if they do not give the military equipment its military character, can serve the U.S. government's national security and foreign policy interests in being able to monitor, control, and otherwise have visibility into the supply chain of the parts and components that are necessary to keep military equipment functioning. The U.S. government has made a determination that such parts and components, which are now ITAR controlled, do not warrant all the controls of the ITAR. The government has not made, and does not intend to make, a determination that such items do not warrant control at all.

Comment: One commenter stated that BIS should respect prior commodity jurisdiction rulings. The U.S. government has already determined that these items do not warrant control on the ITAR as it currently exists. Therefore, they should not warrant control under 600 series ECCNs.

Response: Items not currently on the USML, in an ECCN that ends with ''018,'' or in ECCN 0A918, have been determined not to be military items. BIS confirmed in General Order No. 5 in the April 16 (initial implementation rule) that one may conclude that such items within the scope of a Commodity Jurisdiction (''CJ'') determination are not 600 series items (*See* 78 FR 22660, 22708, April 16, 2013). If readers believe that this proposed rule would do so, they should submit a comment indicating specifically what items in ECCNs other than those described above or what EAR99 items they believe would be moved to the 600 series by this proposed rule.

Comments on ECCN 3A101

Comment: One commenter recommended replacing the phrase ''usable in missiles'' with ''specially designed for use in missiles,'' stating that the former language could lead to controlling almost any analog to digital converter because it would be impossible to prove that it could not be used in some capacity in anything considered a missile. This same commenter recommended removing paragraph .a.1 from ECCN 3A101, which applies to analog to digital converters that are '' 'Specially designed' to meet military specifications for ruggedized equipment,'' because published military specifications for ruggedized equipment address a number of characteristics that are not uniquely military.

Response: The phrases ''usable in missiles'' and '' '[s]pecially designed' to meet military specifications for ruggedized equipment'' are close paraphrases that accurately convey the

meaning of the corresponding language in Category II, Item 14, 14.A.1 of the MTCR Annex. The ECCNs at issue implement the controls described in the MTCR Annex. The changes that this commenter proposes would alter ECCN 3A101 sufficiently that it would no longer accurately convey the meaning of the Annex. Therefore, BIS is not making this change. BIS notes that the control phrase ''usable in missiles'' is indeed substantially broader in scope than the control phrase ''specially designed.'' BIS encourages the public to review the definition of the term in EAR section 772 for purposes of making classification determinations of items that are potentially within the scope of ECCNs that use the phrase ''usable in missiles.''

Comment: One commenter stated that adding analog-to-digital converters to ECCN 3A101.a is a positive change, but thought that doing so was inconsistent with the other changes that were adding electronic items from the USML to ECCN 3A611. The commenter thought the departure from the standard pattern would cause confusion.

Response: BIS proposed adding these analog-to-digital converters to ECCN 3A101.a because that paragraph currently addresses those analog-to-digital converters by referring readers to the USML. BIS believes that implementing the EAR control in the paragraph that currently refers readers to the USML for controls on the same commodities would be less confusing than adding these analog-to-digital converters to a new 600 series ECCN. This proposed rule slightly revises the November 28 (military electronics) rule language to conform more closely to the MTCR text, but continues to control these analog-to-digital converters under ECCN 3A101.a. BIS invites further comment on whether controlling these analog-to-digital converters in ECCN 3A101 or in ECCN 3A611 would be easier for readers of the EAR.

Comments on ECCN 3A611

Comment: One commenter recommended changing the LVS paragraph in ECCN 3A611 to read $1500, N/A for 3A611.c, to be consistent with other ECCN entries that contain similar paragraph restrictions.

Response: BIS agrees that the proposed rule phrasing was not consistent with the pattern used in most ECCNs. To improve consistency and clarity, this proposed phrases the LVS limit as $1500 for 3A611.a, .d through .h and .x; N/A for 3A611.c and .y

Comment: BIS received several comments concerning related controls note number (2) in the November 28 (military electronics) rule (related control note number 6 in this proposed rule), which reads:

> Electronic items ''specially designed'' for military use that are not controlled in any USML category but are within the scope of another ''600 series'' ECCN are controlled by that ''600 series'' ECCN. Thus, ECCN 3A611 controls only electronic items ''specially designed'' for a military use that are not otherwise within the scope of a USML category or ''600 series'' ECCN other than ECCN 3A611. For example, electronic components not enumerated on the USML or another 600 series entry that are ''specially designed'' for a military aircraft controlled by USML Category VIII or ECCN 9A610 are controlled by the catch-all control in ECCN 9A610.x. Electronic components not enumerated on the USML or another 600 series entry that are ''specially designed'' for a military vehicle controlled by USML Category VII or ECCN 0A606 are controlled by ECCN 0A606.x. Electronic components not enumerated on the USML that are ''specially designed'' for a missile controlled by USML Category IV are controlled by ECCN 0A604.

One commenter stated that many types of electronic equipment are used in military vehicles or other military equipment and have no functional or technical difference from similar equipment used in civilian vehicles or equipment. Unless the definition of ''specially designed'' allows for minor modifications to be made without an item being considered ''specially designed,'' the proposed rule would have the potential to impose significant controls on automotive electronic items that are in normal commercial use throughout the world. The proposed rule should be clarified to address this issue by including a note reading, ''Automotive electronic parts, components, accessories and attachments, controlled by 0A606.y are not subject to 3A611.y simply because they contain electronics, rather they are controlled by 0A606.y.''

Response: The definition of ''specially designed'' as published in the April 16, (initial implementation) rule excludes parts that otherwise would be specially designed if the only modification is to make the part fit a particular commodity. Even for electronic parts and components that, according to the definition, are specially designed for military ground vehicles, BIS believes that the commenter's proposed language is unnecessary. The first sentence of the related control note in ECCN 3A611 states that electronic items that are not on the USML and are within the scope of another 600 series ECCN are controlled by that 600 series ECCN. BIS believes that neither modification to this text nor an additional note in paragraph .x is necessary to make the point. A note should not be necessary for the .y paragraphs because the .y paragraphs list specific commodities.

Comment: One commenter recommended that the sentence reading: ''Thus, ECCN 3A611 controls only electronic items 'specially designed' for a military use that are not otherwise within the scope of a USML category or '600 series' ECCN other than ECCN 3A611'' be revised by replacing the phrase or '''600 series' ECCN other than ECCN 3A611'' with ''another 600 series ECCN,'' because the note is within ECCN 3A611, and therefore the reference to 3A611 is unnecessary.

Response: BIS acknowledges the reference to ECCN 3A611 is, as a matter of syntax, unnecessary. However, experience indicates that in the EAR, explicit references, even at the risk of sounding pedantic, often result in fewer misunderstandings. Therefore, BIS is not adopting this change.

Comment: One commenter stated that the text in the related control note to 3A611 that reads ''. . . that are not controlled in any USML category but are within the scope of another '600 series' ECCN are controlled by that '600 series' ECCN'' appears contrary to the reasoning used to include military computers, telecommunications devices and radars in 3A611, and further clouds exactly where electronic components should be classified.

Response: ECCNs 4A611, 5A611 and 6A611 in the November 28 (military electronics) rule are merely ECCN headers that indicate that specially designed military computers, telecommunications equipment and radars, respectively, if not on the USML are controlled under ECCN 3A611. They do not contain any ''List of Items Controlled'' or other text indicating that they are used to impose license requirements. BIS thinks it unlikely that readers, on the basis of the related control note in ECCN 3A611, will look for license requirements in ECCNs 4A611, 5A611 or 6A611; even if they do so, they would be directed back to ECCN 3A611. Accordingly, this proposed rule does not change the text of the first sentence of related control note (6). However, readers are encouraged to submit further comments on this point. As described above, BIS is specifically seeking comments about whether it would be easier to understand and make compliance determinations if separate 600 series ECCNs sets were created for military computers, military telecommunications, and military lasers and radar in CCL Categories 4, 5, and 6, respectively or if all such items are

controlled within the scope of a general military electronics 600 series ECCN, i.e., 3x611.

Comment: One commenter noted that the second sentence of this related control note (number 6 in this proposed rule) refers to ECCN 3A611, whereas the corresponding explanatory text in the preamble refers to ECCN 3A611.x. The commenter believes that the regulatory text is correct and that the explanatory text should be modified accordingly.

Response: BIS agrees and the explanatory text has been modified accordingly in this proposed rule.

Comment: One commenter recommended changing ''directly related'' to ''specially designed'' in the first related controls note, which states technical data that are directly related to electronic items controlled in USML Category XI or other USML categories are subject to the ITAR.

Response: BIS is not adopting this recommendation. The purpose of the related controls note is to call readers' attention to regulatory provisions that apply to items related to or similar to the items in the ECCN in which the note appears. In this instance, the relevant regulatory provision is Category XI of the USML, which uses the phrase ''directly related to . . .'' in describing the technical data that it controls. Comments or questions regarding the meaning of ''directly related'' should be directed to the Department of State's Directorate of Defense Trade Controls.

Comment: BIS received several comments about the terms used in ECCN 3A611.a. Commenters thought certain terms were imprecise and should be eliminated or replaced with more specific listings of items controlled. The criticized terms were ''equipment,'' ''end items,'' ''systems,'' ''specially designed'' and ''military use.''

Response: This proposed rule does not eliminate any of those criticized terms. The definitions of the terms ''end item,'' ''equipment,'' ''specially designed'' and ''system'' that will apply to this proposed rule were published in the April 16 (initial implementation) rule. BIS believes that, with these definitions, the terms will be sufficiently precise to be widely understood by readers of the EAR. If, after reviewing the new definitions, readers are uncertain about their meanings, BIS encourages them to describe the basis for the uncertainty in their comments to this or any other relevant proposed rule BIS publishes.

Although the term ''military use'' was not defined in April 16 (initial implementation) rule, that term is used in the WAML category ML11 to describe the types of electronics subject to that category. Additionally, the term ''military application'' is currently used in USML Category XI to describe the electronics subject to that category. BIS believes that in practical usage, the phrase ''military use'' is synonymous with ''military application.'' This proposed rule retains the term ''military use'' to avoid inadvertent decontrol of items currently in WAML category ML11 or USML Category XI.

Comment: One commenter focused on the portion of the note to ECCN 3A611.a that reads: ''3A611.a includes any radar, telecommunications or computer equipment, end items or systems 'specially designed' for military use that are not enumerated in any USML category or controlled by a '600 series' ECCN.'' The commenter suggested that this note could create confusion as to, for example, license requirements for items controlled under ECCNs 5A002, 5A991 or EAR99. This commenter also stated that a manufacturer typically will develop a standard prototype and offer the system in whatever frequency range the customer specifies. Such systems perform identical functions using identical technology regardless of whether they are set to operate in a traditional military or civilian frequency band. Communications systems for military customers are often assembled with commercial-off-the-shelf equipment. ECCN 3A611.a should be clarified to enumerate specific categories of items with particular threshold parameters. This commenter suggested that ECCN 3A611.a should be modified to exclude explicitly items that are composed of commercially available components—similar to the exclusion in USML Category XI(c). This commenter proposed adding a note to 3A611 that would implement both of its proposals: ''Note: This ECCN does not control equipment or systems that are comprised of parts, components, or accessories in normal commercial use, which operate in a frequency range allocated for military use.''

Response: BIS is making no changes to the proposed rule in response to this comment. Items specially designed for military applications and that are not described on the USML warrant the degree of control and government visibility set forth in the 600 series ECCNs. That such items may be technologically similar to items not specially designed for military applications misses the point of 600 series controls, which is to have U.S. government visibility and control over their export and reexport to various destinations, end users, and end uses of concern. It is because such items are technologically similar to items used in commercial applications that their jurisdictional status is being changed from an ITAR-controlled item to an EAR-controlled item. BIS also rejects that suggestion that items specially designed for military applications not be controlled by a military export control if they are composed of commercially available parts and components. Regulations that fail to control the export of items with military applications solely because they can be built from commercially available components would risk strengthening adversaries' military capability. Moreover, such a decontrol note would likely lead to inconsistent interpretations of the EAR as each individual exporter applies its own interpretation of the term ''commercially available.'' Finally, BIS believes that this commenter is misinterpreting USML Category XI(c), which first controls components of equipment that is controlled by Category XI(a) and (b), and then excludes from that control only those otherwise ITAR controlled parts, components, accessories, and attachments that are ''in normal commercial use.'' The State Department has confirmed for BIS that Category XI does not exclude items specifically designed or modified for military applications from ITAR control merely because they are made from components in normal commercial use. Rather, USML Category XI(c) excludes from control the part, component, accessory, or attachment itself that is ''in normal commercial use.''

Comment: One commenter recommended removing the technical parameters for microwave monolithic integrated circuits (MMIC) and discrete microwave transistors from ECCN 3A611.c and .d. The commenter recommended that ECCN 3A611.c and .d should cover microwave monolithic integrated circuits and discrete microwave transistors specially designed for military applications and not found in commercial applications instead.

Response: BIS is not adopting this recommendation. One of the goals of the Export Control Reform Initiative is to describe the controlled items using specific parameters whenever feasible. The text of ECCN 3A611.c and .d in this proposed rule reflects the efforts of the Departments of Defense, State, and Commerce to tailor the control text so that it describes the MMIC power amplifiers and discrete microwave transistors that have significant military application. If we have described in the proposed text items that are or are likely

to be in normal commercial use, then please provide a comment regarding such uses and the evidence to support the comment.

Comment: One commenter noted that MMIC power amplifiers in ECCN 3A001.b.2 have a higher threshold floor operating frequency than MMIC power amplifier in 3A611.c. The commenter recommended that the 3A611.c operating frequency threshold floor be raised to at least 3.2 GHz.

Response: BIS is not adopting this proposal to raise the threshold floor frequency for MMIC power amplifiers. Although the current threshold floor frequency for MMIC power amplifiers listed in ECCN 3A001.b.2 is 3.2 GHz, the frequency threshold floor for MMIC power amplifiers listed in in ECCN 3A982 is 2.7 GHz. The U.S. government has presented a proposal to the Wassenaar Arrangement to make 2.7 GHz the threshold floor on the Wassenaar Arrangement Dual-Use List. In this proposed rule, ECCN 3A611.c and .d are based on that proposal with the addition of power added efficiency, higher peak saturated power, increased fractional bandwidth, or some combination of these factors to limit ECCN 3A611.c and .d. to those MMIC power amplifiers and discrete microwave transistors that have significant military applications. BIS encourages comments on the parameters set forth in this proposed rule.

Comment: One commenter stated that MMICs and discrete microware transistors with significant military applications operate at frequencies that fall within the gaps between the operating frequency ranges listed in paragraph .c and .d of ECCN 3A611 in the November 28 (military electronics) rule.

Response: There are no gaps between the operating frequency ranges in ECCN 3A611.c and .d in this proposed rule.

Comment: One commenter provided extensive comments on the MMIC amplifiers and discrete microwave transistors in ECCN 3A611.c and .d of the November 28 (military electronics) rule. Those comments are summarized below.

- Wireless broadband and mobile carriers operate in the 2.5–2.7 GHz segment of the S-band frequency range.
- Descriptions of operating frequency thresholds should be consistent among ECCNs, and recommend the pattern currently in ECCN 3A001 (frequencies exceeding X up to and including Y) as being better than the pattern in the November 28 (military electronics) rule (frequencies of X up to and including Y). The commenter stated that the bottom threshold creates a problem because standard cell phone carrier equipment typically operates in the range of 2.5 to 2.7 GHz, with a performance roll off slightly above that frequency. Using ''exceeding'' would prevent 3A611 from capturing a large segment of commercial products that are currently EAR99.
- A total overlap exists between the frequency ranges for both MMIC amplifier and transistors in proposed ECCN 3A611 and existing ECCN 3A982. ECCN 3A611 would add a power added efficiency metric of 30% and a third unit of measure for power thresholds to the two already implemented under ECCN 3A982. The result would make ECCN 3A982 entirely redundant, and make these products ineligible for License Exception STA, *i.e.,* tightening export controls in these products.
- ECCNs 3A611.c and .d—For tiers exceeding 3.2 GHz, proposed ECCN 3A611 would encompass the same frequencies currently covered by ECCN 3A001 (with carve outs in the 31.8 GHz range and for frequencies exceeding 75 GHz). However, by changing the unit of measure for the wattage cut-off points from average power to peak power, the power thresholds would become more restrictive.
- The proposed power thresholds for transistors and MMICs in ECCN 3A611 bear no direct correlation to military-specific applications in accordance with the stated intention. By taking the existing frequency and power thresholds under ECCNs 3A001 and 3A982 and converting the power unit of measure to a tighter metric, this rule would have the opposite effect.
- The addition of a power-added efficiency metric to the transistor and MMIC controls does not lessen the impact of overly restrictive power thresholds. Most Gallium Nitride (GaN) transistors and MMICs perform at levels that exceed the proposed power added efficiency thresholds for 3A611. Accordingly, it does not help to focus the ECCN on high performance parts, which instead would capture most of the GaN transistors and MMICs presently used in telecom, backhaul, point-to-point, and satellite applications.
- Telecom infrastructure providers use wide band gap products, such as with a frequency range of DC–18 GHz for backhaul services (telecom providers can take the traffic at a local cell phone tower back to the switchboard by aggregating the calls).
- The proposed power added efficiency thresholds, as a function of bandwidth, bear no logical correlation to the way that discrete microwave transistors and MMIC technologies actually work. The lower frequencies should correspond with higher power-added efficiency; as the frequency goes higher, the power-added efficiency should decrease.
- The proposed power-added efficiency values start at 30% for the lowest frequency tier, go up to 40%, then go back down to 35% before hitting 30% again. The commenter believes that these thresholds are arbitrary and impractical, and proposes alternatives of 60%, 53%, 45%, 30%, 15%, & 10% for HEMTs and 65%, 57%, 50%, 30%, & 15% for MMICs.
- Saturated peak output power is the most appropriate measure. A peak output power metric would most accurately address potential concern relating to military importance for parts. This unit also would eliminate many of the close-to-the-threshold concerns by providing a more precise measure of power. BIS should adopt peak output power for all ECCNs that apply to discrete microwave transistors and MMICs. In particular, the average power metric should be eliminated from proposed 3A611, 3A001 and 3A982, or at least that term should be clearly defined in a way that corresponds to peak power.
- The commenter expects a surge in demand for discrete microwave transistors with a rated peak power of 120 W in the 3.55–3.65 GHz band (currently used by naval radar systems) because of an FCC proposal to allow small cells/citizens band radio to operate in that range (78 FR 1188, January 8, 2013).
- The commenter recommended that 3A611 exclude discrete microwave transistors and MMICs that are specifically designed for communications in a frequency band allocated by the International Telecommunications Union, stating that similar language is used in ECCN 3A001.
- Proposed 3A611 would expand controls on several commercial parts that are, and should continue to be, 3A001 or EAR99. Similar parts are available without license restrictions from UMS (Germany), Mitsubishi (Japan), Toshiba (Japan), and Sumitomo (Japan).
- Increasing controls on parts that currently are available without restriction, and creating ambiguity among proposed ECCN 3A611 and existing ECCNs 3A001 and 3A982, would create an unlevel playing field for U.S. manufacturers and jeopardize thousands of high paying jobs.
- This commenter urged removal of discrete microwave transistors and MMICs from proposed 3A611

altogether, because proposed control thresholds overlap with existing controls on the CCL. Alternatively, if they are to remain in 3A611, the commenter stated that BIS should tailor the provisions narrowly so that they apply only to a limited range of products that truly are specially designed for military use, with no potential commercial applications in the designated power, frequency, and efficiency ranges. There should be a logical progression from ECCNs 3A001 to 3A983 to 3A611. Additionally, the units of measure should be harmonized for all three ECCNs.

Response: BIS has substantially revamped the criteria for proposed ECCNs 3A611.c and .d in this proposed rule compared to the November 28 (military electronics) rule, in an effort to tailor these paragraphs to apply to MMIC power amplifiers and discrete microwave transistors that have significant military applications. These changes are also intended to avoid controlling MMIC power amplifiers and discrete microwave transistors that have significant civil applications, which will remain in ECCNs 3A001 and 3A982. Furthermore, The U.S. government has presented a proposal to the Wassenaar Arrangement to modify the Wassenaar Arrangement Dual List parameters for MMIC power amplifiers and discrete transistors. These proposed modifications are being evaluated and would align controls among ECCNs 3A001, 3A982, and 3A611 and prevent overlap.

In this proposed rule, paragraph .c would control MMIC power amplifiers and paragraph .d would control discrete microwave transistors, as was the case in the November 28 (military electronics) rule. As recommended by this commenter, frequency ranges are expressed in the form ''frequencies exceeding X up to and including Y'' for all subparagraphs of both paragraphs .c and .d.

The MMIC power amplifiers subject to paragraph .c would be described in 13 subparagraphs. Each subparagraph would apply to a specified operating frequency range, starting with subparagraph .c.1, which would apply to MMIC power amplifiers with operating frequencies exceeding 2.7 GHz up to and including 2.9 GHz, and increasing with each paragraph to paragraph c.13, which applies to MMIC power amplifiers with operating frequencies exceeding 110 GHz. Each subparagraph would be further defined by the peak saturated power output value that the MMIC power amplifiers must exceed to be included within that paragraph. Fractional bandwidth and power added efficiency would further define the MMIC power amplifiers controlled by some of the subparagraphs. The terms ''average power output,'' ''pulse power output,'' and ''duty cycle,'' would not be used to describe the MMIC power amplifiers in paragraph .c.

The Departments of Defense, State and Commerce identified these parameters as describing the MMIC power amplifiers that are sufficiently important to military applications to justify control under a 600 series ECCN. BIS believes that when the EAR are read according to the order of review published in the April 16 (initial implementation) rule, any apparent overlap between the MMIC power amplifiers listed in proposed ECCN 3A611 and those listed in ECCNs 3A001 or 3A982 would be unambiguously resolved, and that only those MMIC power amplifiers with significant military application would be in ECCN 3A611.c. BIS welcomes comments on whether such is, in fact, the case.

The discrete microwave transistors subject to paragraph .d are described in 12 subparagraphs. Each subparagraph applies to a specified operating frequency range starting with subparagraph .d.1, which applies to discrete microwave transistors with operating frequencies exceeding 2.7 GHz up to and including 2.9 GHz, increasing with each paragraph to paragraph c.12, which applies to discrete microwave transistors with operating frequencies exceeding 75 GHz. Within each of the first 11 subparagraphs peak saturated power output and power added efficiency further define the discrete microwave transistors to which paragraph .d would apply. In the twelfth and final subparagraph, only peak saturated power output further defines the controlled discrete microwave transistors. BIS and the Departments Defense, State and Commerce identified these parameters as describing the discrete microwave transistors that are sufficiently important to military applications to justify control under a 600 series ECCN. BIS believes that when the EAR are read according to the order of review published in the April 16 (initial implementation) rule, any apparent overlap between the transistors listed in proposed ECCN 3A611 and those listed in ECCNs 3A001.b.3 or 3A982 can be unambiguously resolved and that only those discrete microwave transistors with significant military application would be in ECCN 3A611.d. BIS welcomes comments on whether such is, in fact, the case.

Comment: One commenter stated that the description in 3A611.d ''discrete radio frequency transistors'' should be the same as ECCN 3A001.b.3 ''discrete microwave transistors.''

Response: The preamble to the November 28 (military electronics) rule used the phrase ''discrete radio frequency transistors,'' whereas the regulatory text used the phrase ''discrete microwave transistors.'' This proposed rule uses the latter phrase in the preamble.

Comment: One commenter stated that discrete microwave transistors in 3A611.d have a higher operating frequency than those in 3A001.b.3. This commenter recommended that threshold floor operating frequency in 3A611.d be raised to at least 3.2 GHz.

Response: This second proposed rule would not raise the operating frequency threshold floor for discrete microwave transistors as compared to the November 28 (military electronics) rule. Although the current threshold floor frequency for power transistors listed in ECCN 3A001.b.3 is 3.2 GHz, the frequency threshold floor for transistors listed in in ECCN 3A982 is 2.7 GHz. The U.S. government has presented a proposal to the Wassenaar Arrangement to make 2.7 GHz the threshold for coverage on the Wassenaar Arrangement Dual Use List. In this proposed rule, ECCN 3A611.d is based on that proposal with the added factor of power added efficiency, or peak saturated power, or some combination thereof, to identify discrete microwave transistors that have sufficient military significance to warrant inclusion in a 600 series ECCN. BIS encourages comments on the parameters in this proposed rule.

Comment: One commenter stated that proposed ECCN 3A611.e duplicates equipment proposed to be classified under Category XI(a)(2)(v) and (vi). The commenter urged the Departments of State and Commerce to specify exactly what is proposed for each list either by name or discrete technical parameters.

Response: BIS believes that the commenter was referring to proposed Category XI(a)(3)(v) and (vi), which address radars, as does ECCN 3A611.e. (The Department of State's November 28 (military electronics) rule did not contain a Category XI(a)(2)(v) or (vi)). This second proposed rule and the proposed rule being published simultaneously by the Department of State include revisions to proposed Category XI(a)(3)(v) and ECCN 3A611.e to more precisely describe each than was done in BIS's and State's November 28 (military electronics) rules. Under the order of review published in the April 16 (initial implementation) rule, if

an item meets the specific parameters of a USML category, it is classified under that category, and one need not refer to the CCL. BIS believes that the revised text in this second proposed rule, combined with the order of review, removes any ambiguity that may have existed in the November 28 (military electronics) rule.

Comment: Several commenters addressed the originally proposed ECCN 3A611.f, which applied to microelectronic devices or printed circuit boards produced at a trusted foundry, trusted source or trusted supplier accredited by the Defense Microelectronics Activity (DEMA). One commenter stated that this paragraph would be a positive move that would clearly define the articles covered. Other commenters perceived problems with the paragraph. Those perceived problems were: the paragraph appeared to be a delegation by BIS of a Department of State classification authority to the DEMA; the rule provided no guidance as to how to validate a supplier's accreditation; the paragraph would control items not necessarily made for military use if they were trusted devices; and DEMA accredits various facilities for a variety of functions relating to production and testing—the rule needs clarifying language on this point.

Response: Upon review, the Department of Defense concluded that all of the items in proposed 3A611.f that would be appropriate for ''600 series'' ECCN classification can be fully covered elsewhere in 3A611 or other ''600 series'' ECCNs. Therefore, this re-proposed rule does not mention microelectronic devices or printed circuit boards produced at a trusted foundry, trusted source or trusted supplier accredited by DEMA.

Comments: One commenter stated that the .x concept in the 600 series is confusing and would frustrate users attempting to classify parts correctly. This commenter also stated that the .x control did not clearly align jurisdictional status of software and technology with the items to which they relate. This commenter suggested that confusion could be reduced by revising the first two related control notes in ECCN 3A611 to read, ''(1) Electronic items that are *BY THEMSELVES* enumerated . . . .'' and ''(2) Electronic items 'specially designed' for military end us that are not *BY THEMSELVES* controlled within any USML category but are within the scope of another '600 series' ECCN . . . .''

Another commenter stated that 3A611.x includes parts, components, accessories and attachments ''specially designed'' for military end use that are neither enumerated in any USML category nor another ''600 series'' ECCN. The commenter stated that it is not clear that there are any such parts, components, accessories and attachments. The commenter noted that electronics are often found in other end-items, and as such would be controlled under the ECCN for the end-item, and that the proposed language is not required and needlessly complicates the CCL.

Response: This proposed rule would continue to use the ''.x'' concept. The April 16 (initial implementation) rule specifies an order of review and provides a definition of the term ''specially designed.'' BIS believes that these provisions, read together, would make clear that a part, software, or technology for a commodity, unless specifically enumerated elsewhere on the USML or CCL, is treated for purposes of EAR license requirements as a part of that component rather than as a part of an end-item into which the component will be installed. The specially designed definition provides greater clarity as to which parts and components are specially designed for commodities on the CCL.

Moreover, listing in ECCN 3A611 every single specially designed part or component of every piece of military electronic equipment found on the USML or in ECCN 3A611 would make the ECCN long and cumbersome. Some catch-all license requirements, as currently exist on the USML, are needed to provide the United States Government with visibility into the disposition and use of military equipment around the world. Finally, there are many types of electronic components specially designed for military items that would not be controlled under other 600 series items.

BIS welcomes further comments on whether the definition of ''specially designed'' and the order of review add clarity and certainty to the process of classifying parts for military electronics.

Comments on ECCN 3A611.y and .y Paragraphs Generally

Comment: One commenter expressed a belief that placing the .y paragraphs in separate ECCNs would lead to inconsistent classifications. That commenter offered several examples from various BIS proposed rules, e.g., indicator lights for commodities in some ECCNs would be in the .y paragraph, but not in other ECCNs that apply to items that have indicator lights. This commenter asserted that the multiple .y paragraphs would create an unnecessary classification burden. This commenter recommended a single list of all .y items. (The only CCL reason for control that applies to items in the .y paragraphs of 600 series ECCNs is antiterrorism. Such items are also subject to the China military end-use requirement.)

Response: Although this second proposed rule continues to list separate ECCN-specific .y paragraphs, BIS is considering four options to address items of limited military significance, and would like additional public comments on the desirability of each alternative. Those options are: (1) Creating separate ECCN-specific .y paragraphs; (2) creating a single list of 600 series items subject only to antiterrorism and China military end-use license requirements; (3) establishing a classification request procedure whereby a 600 series item could be designated as subject to only antiterrorism and China military end-use license requirements, but eliminating the .y listings from the regulations; or removing all .y lists completely. In evaluating the desirability of each option, commenters should bear in mind that the .y designation indicates that the Departments of Defense, State and Commerce have agreed that a specified item is of such limited military significance, for almost all destinations, that the U.S. government need not attempt to control access to items or monitor their distribution to obtain visibility into supply chains necessary to keep military equipment functioning. Each option presents different advantages and disadvantages.

Creating separate ECCN specific .y paragraphs would allow BIS to tailor the controls most precisely, but would also produce the most complex and lengthy regulations. Control over a commodity designed for a military ground vehicle might provide less visibility into relevant supply chains than would control over that same type of commodity for a submarine or surface vessel of war. A single .y list would make the regulation of insignificant military items shorter and less complex, but likely would contain fewer items than separate .y paragraphs. Such a list would need to be a lowest common denominator list equally relevant to all parts for all types of military end items, from military trucks to advanced submarines. Only those items that do not provide useful visibility into the relevant supply chain for any 600 series ECCN or USML category could be included in such a list. A case-by-case classification process would likely produce the simplest and shortest regulations; it could also tailor .y status

to very specific items. However, the classification process likely would be time consuming and, because classifications are not published by BIS, the results would not be as widely distributed as would a list or lists in the EAR. Removing all .y lists completely. This would have the benefit of substantially simplifying and shortening the relevant ECCNs and leaving to one paragraph—the .x paragraphs—the controls over non-enumerated parts, components, accessories, and attachments. The downside to this option would be substantial over-control on insignificant items.

Comment: Some commenters expressed concern about controlling commodities of little or no military significance in 3A611.y. One commenter thought that such items could be controlled in existing ECCNs. Another commenter suggested that paragraph .y might cause confusion with items controlled under other categories, and might increase controls on items already classified as EAR99. One commenter recommended that three specific commodities: Electrical connectors, electrical connector backshells, and waveguides, would be more appropriately controlled in a non-600 series ECCN because of their commercial applications.

Response: Commodities proposed for ECCN 3A611.y are currently controlled in the catch-all paragraph XI(c) on the USML. BIS has not proposed moving any EAR99 items and is proposing to move only items controlled by other than -018 ECCNs or ECCN 0A918 into the 600 series ECCNs. Although commodities with the same or a similar name, *e.g.,* ''electric fans,'' may be controlled under other ECCNs or may be EAR99, the distinguishing factor that makes a commodity subject to 3A611.y is that it is both '''specially designed' for a commodity in ECCN 3A611 and not elsewhere specified in the CCL (revised to read ''not elsewhere specified in a 600 series ECCN'' in this proposed rule—see explanation below). Items that are specified in a non- 600 series ECCN (other than those ending in ''018,'' all of which are expected to be subsumed into the 600 series in the course of the Export Control Reform Initiative) would not be specifically designed for the military electronic equipment in 3A611. Items that are specially designed need some measure of control and for consistency that control should be in a 600 series. Readers should review the final definition of ''specially designed'' (cited above) in evaluating paragraph .y in this proposed rule.

Comment: Some commenters recommended adding some commodities to 3A611.y because they believed that the commodities have commercial application or perform the same function in military equipment as they do in commercial applications. The items proposed for addition were:

- Crystals and crystal oscillators used a components in articles enumerated under USML Category XI
- Cross-field amplifiers, inductive output tubes
- Optical and electrical cables, and harnesses
- Capacitors, crystals oscillators, diodes
- Electrical sockets, optical connectors
- Inductors
- Relays, resistors
- Optical connector backshells
- Optical switches
- Laser and optical terminals
- Digital signal processors
- Power supply
- Passive microwave components
- Telecom receivers and transmitters

Response: This proposed rule does not add any items to the .y paragraphs that did not appear in the November 28 (military electronics) rule. Based on the responses to the question whether to modify or even maintain the .y list as proposed. BIS will consider whether to add more items to a .y structure. The public is encouraged to provide justification why particular types of items, regardless of how they would be modified for any military item, are nonetheless so insignificant as to not warrant more than AT-only controls.

Comment on ECCN 3B611

Comment: One commenter noted that BIS originally stated that ECCN 3B611 is intended to align with WAML category ML18. This commenter recommended including the WAML category ML18 note listing the equipment subject to this control in ECCN 3B611.

Response: BIS is not adopting this recommendation. ECCN 3B611 applies to test, inspection and production equipment for military electronics. WAML category ML18 applies to such equipment for items on the WAML in general. Note 2 to WAML category ML18 lists examples of production and test equipment for a wide range of items on the WAML, but none of the examples relates specifically to production or testing of military electronics. Therefore, BIS believes that adding that list to ECCN 3B611 would be less helpful than suggested.

Comment on ECCN 3D611

Comment: One commenter recommended that ECCN 3D611 be revised for consistency with the EAR interpretation of ''use,'' *i.e.,* all six elements of the term use must be present for the software to be controlled as ''use'' software. Alternatively, the commenter recommended limiting ECCN 3D611 to software for development and production. The commenter thought the proposed rule language may cause confusion and result in a ''roll-back'' from BIS's prior interpretation. *See* 71 FR 30840, 30843 (May 31, 2006).

Response: BIS is not adopting either of these recommendations. The **Federal Register** notice to which the commenter referred interpreted the adjective ''use'' as it applied to software and technology on the CCL prior to the creation of the 600 series ECCNs. Nearly all of the software and technology in existing and proposed 600 series ECCNs comes from USML categories. One goal of the US government in the Export Control Reform Initiative is not to decontrol completely and inadvertently items the President determines no longer warrant control on the USML. BIS believes that the formulation in ECCN 3D611 in the November 28 (military electronics) rule, controlling ''software 'specially designed' for the 'production,' 'development,' operation or maintenance . . .'' achieves this objective.

Comments on ECCN 3E611

Comment: One commenter stated that the following phrase in ECCN 3E611.a ''Technology'' (other than that described in ECCN 3E611.b or 3E611.y) not otherwise enumerated in this ECCN . . .'' was redundant.

Response: BIS agrees. The phrase ''not otherwise enumerated in this ECCN'' . . .'' does not appear in ECCN 3E611.a of this proposed rule.

Comment: One commenter noted that paragraph .b of ECCN 3E611 in the November 28 (military electronics) rule lists technology for helix traveling wave tubes, transmit/receive modules, MMICs and discrete radio frequency transistors. However, nothing in this paragraph would limit its scope to technology for commodities and software in ECCNs 3A611, 3B611 or 3D611. This omission gives the impression that 3E611 controls technology for commodities and software in non-600 series ECCNs, which is inconsistent with the wording in the preamble. *See* 77 FR 70947 (November 28, 2012). The commenter suggests removing paragraph .b and the reference to paragraph .b that was in the parenthetical in paragraph .a as a way to eliminate the problem.

Response: BIS agrees that the technology in ECCN 3E611.b should not apply beyond helix traveling wave tubes, transmit/receive modules, MMICs

and discrete microwave transistors covered by ECCN 3A611, and this proposed rule modifies ECCN 3E611.b to that effect. This proposed rule does not adopt the commenter's suggestion to eliminate paragraph .b. Paragraph .b is needed because use of License Exception STA is limited to ''build-to-print'' technology with respect to the items listed in paragraph .b. No such limitation applies to paragraph .a.

Comment: One commenter noted that proposed ECCN 3E611 applied to '' 'technology' 'required' for the 'development,' 'production,' operation, installation, maintenance, repair, or overhaul of . . . .'' and proposed replacing that phrase with the phrase '' 'technology' 'required' for the 'development,' 'production,' operation, installation, maintenance, repair, and overhaul of . . .'' or with the word ''use.'' The commenter noted that its recommended change would make ECCN 3E611 consistent with other technology ECCNs in which the word use indicates that the software must perform all six functions to be covered.

Response: BIS is not making this change. As described above, BIS is revising 3E611 to include all six elements.

Comment: One commenter noted BIS's December 6 (military vehicles) rule (*See* 76 FR 76085 (December 6, 2011)), which stated that BIS was considering recommendations to ''limit the controls on form, fit, and function data needed to provide military insignificant items for military vehicles to the antiterrorism reason.'' This commenter recommended that the rule make clear that ECCN 3E611 does not control information about automotive electronics that is outside the scope of ECCN 0E606, nor does it control information about automotive electronics that is controlled by ECCN 0E606, because that information relates to an item controlled by ECCN 0A606.y. This commenter also noted that manufacturers of commercially available automotive electronics may employ people from a number of countries. If information about minor adaptations to widely commercially available components must be kept from foreign employees, or licenses are required to share such information with foreign employees, compliance costs would be significant, resulting in higher costs for the U.S. military. The commenter reiterated the definition of specially designed that it provided in response to the proposed rule entitled '''Specially Designed' Definition'' (77 FR 36409, June 19, 2012) as an alternative to its specific proposal that ECCN 3E611 should not control information controlled by ECCN 0E606.

Response: The Related Controls paragraph of ECCN 3A611 in this second proposed rule contains the following statement ''Electronic components not enumerated on the USML or another 600 series entry that are 'specially designed' for a military vehicle controlled by USML Category VII or ECCN 0A606 are controlled by ECCN 0A606.x.'' Additionally, the final definition of ''specially designed,'' in the April 16 (initial implementation) rule, excludes certain named parts and components, parts and components that are identical to parts and components used in civil items that are in production or that differ from items only with respect to fit. It also excludes parts and components where documentation contemporaneous with development indicates the part or component was designed for a civil item or for no specific item. BIS welcomes comments on the impact of that definition on the provisions of this proposed rule.

Comment: One commenter expressed approval of using the word ''required'' in ECCN 3E611, because it serves to focus the controls on critical technology and is well understood by exporters.

Response: BIS agrees. The term ''required'' is based on the Wassenaar Arrangement general technology note and is used in technology ECCNs throughout the EAR to focus the scope of the control.

Comment: One commenter questioned whether the reference to ''§ 746.3 (Iraq)'' is needed in note 1 in ECCN 4A003.

Response: The reference to § 746.3 (Iraq) is currently in note 1 in ECCN 4A003. The note indicates that certain transactions that do not require a license for many destinations do, however, require a license pursuant to § 746.3 of the EAR for destinations in Iraq. It is unrelated to the purpose of the proposed revisions to ECCN 4A003 in the November 28 (military electronics) rule, which was to impose the missile technology (MT Column 1) reason for control on analog-to-digital converters in 4A003.e that meet or exceed the parameters of ECCN 3A101.a.4. Therefore, BIS is not making any changes to the text of proposed ECCN 4A003 as a result of this comment.

Comment: One commenter stated that ECCN 5A001.f and .h duplicate items found in proposed USML Category XI(a)(4)(iii), and recommended that the overlap be resolved before releasing a final rule.

Response: The proposed Department of State rule being published simultaneously with this proposed rule contains a note to USML Category XI(a)(4)(iii) stating that ''Paragraph XI(a)(4)(iii) does not control mobile telecommunications jamming equipment determined to be subject to the EAR via a commodity jurisdiction determination . . . .'' BIS believes that the commodity jurisdiction process will effectively resolve the overlap that this commenter perceived and is, therefore, not making any changes to the text of ECCN 5A001.f and .h in this proposed rule.

Comment: One commenter stated that changes proposed to USML Category XI(b) would complicate the classification of equipment currently classified in 5A001.i and 5A980, and recommended that both rules be revised to create jurisdictional ''bright lines'' and ''positive lists'' of the equipment controlled in each list as intended by the Export Control Reform Initiative.

Response: BIS believes that the USML Category XI(b) as set forth in the proposed Department of State rule being published simultaneously with this proposed rule, along with the order of review in the April 16 (initial implementation) final rule published by BIS (*See* 78 FR 22735, April 16, 2013), will provide certainty as to which agency has jurisdiction over which articles. Under the order of review, items enumerated on the USML are subject to the ITAR, even if they are within the parameters of an ECCN. Accordingly, BIS is making no changes to ECCNs 5A001.i or 5A980 as a result of this comment. However, if upon review of the Department of State text in light of the ''order of review,'' readers believe uncertainty still exists, BIS will consider comments to that effect. In addition, BIS invites recommendations from the public regarding text that would provide a clear distinction between the items controlled by USML Category XI(b) and items controlled by ECCN 5A001.i or 5A980.

Comment: One commenter stated that the ''Reason for Control'' table in ECCN 7A006 indicates that MT controls apply to commodities that meet or exceed the parameters of 7A106. It appears that, by definition, all items in 7A006 meet or exceed the parameters of 7A106; therefore this language should be removed.

Response: BIS believes that this language is needed because of the longstanding order of review of non-600 series ECCNs, wherein one reviews ECCNs within a category in order. ECCNs with a 0 as the third character follow the Wassenaar Arrangement Dual Use List text. ECCNs with a 1 as the third character generally follow the MTCR text. When the two regimes have

identical text about a particular item, the MT reason for control is included in an ECCN with the 0 as the third character. However, when the MTCR text differs from the Wassenaar Arrangement Dual Use List text, the reference to the parameters of the MTCR based ECCN are used to identify items in the text of the ECCN with the 0 as the third character to be precise. This system is used throughout the EAR. Therefore, BIS is making no changes in response to this comment.

Comments Concerning License Exception STA

Comment: Some commenters noted that exports under STA are likely to be in support of foreign defense programs. One commenter recommended the proposed language for the License Exception STA consignee statement set forth in the June 21 (transition) rule (*See* 77 FR 37541, June 21, 2013) be revised to include the following underscored language: ''(vi) For '600 series' items, confirms that *unless otherwise authorized by the U.S. government,* the items are for end use by a government of a country listed in § 740.20(c) . . . .'' The Commenter cited the example of a European-built military transport aircraft that contains some US-origin parts and components. Some of the aircraft would be sold to governments eligible to receive items under STA, while others would be sold elsewhere. Neither the U.S. supplier nor the foreign manufacturer would have any way of knowing which parts would go into aircraft for eligible governments and which would not and, thus, under BIS's proposed language, could not use STA. This commenter appeared to contemplate a situation in which the consignee could apply for a license to use parts already received under License Exception STA in connection with an activity or end-user not authorized by License Exception STA.

One commenter proposed allowing use of STA based on the consignee's assurance that the appropriate U.S. government authorization would be obtained before sending the item outside the STA eligible countries. Another commenter proposed allowing some kind of use of STA on a program basis.

Response: BIS intends that the U.S. government will have authority to license shipments under STA that will not be limited to the end users specified in § 740.20(c). Under the April 16 (initial implementation) rule, the U.S. government could issue a license authorizing the use of License Exception STA to ship to a consignee parts that would ultimately be incorporated into items that will be used by end-users not otherwise be eligible to receive 600 series end items. BIS did not intend to require that the license explicitly mention License Exception STA. BIS intends to publish a correction rule so that any license issued to the STA consignee authorized the end use, could be a basis for authorizing an export, reexport or transfer to that consignee under License Exception STA of items otherwise eligible for transfer under License Exception STA.

The consignee would have to obtain the license prior to any shipment of parts to it under License Exception STA because the consignee would have to furnish a copy of the license to the exporter before the exporter could ship under License Exception STA. If after the consignee received parts under License Exception STA, the consignee learned that those already received parts are needed for an item being produced for an end user other than one authorized under STA, that consignee could still apply to the U.S. government for a license to use those parts in such production, notwithstanding the language about end use in the consignee's prior statement. BIS does not intend to preclude STA consignees from requesting a new or expanded authorization based on facts of which the consignee was unaware at the time it made the original statement. BIS does not believe that a change in the regulatory text is needed to make this point. BIS is interested in comments on whether the approach described in the initial implementation rule is feasible and addresses the point of the comment.

Comment: One commenter expressed general approval of License Exception STA and recommended more outreach to increase understanding and use of it.

Response: BIS is developing outreach programs to address this need.

Comment: One commenter recommended that, provided security needs are adequately addressed, the number of eligible STA destinations should be increased.

Response: Although the number of License Exception STA eligible destinations may grow or shrink over time, expanding the geographic scope of License Exception STA is not a part of this rulemaking exercise, which is concerned with adding to the CCL items that the President determines no longer warrant control under the USML.

Comment: One commenter recommended that BIS eliminate the STA consignee statement entirely (or at least to NATO countries) to significantly ease the administrative burden on industry when using this exception. The commenter asserted that this statement is similar to the DSP–83 ''Nontransfer and Use Certificate'' form, which is required currently for Significant Military Equipment (SME) but not for the non-SME articles in Category XI(c). Most of the items would be moved to the CCL 600 series under the proposed rule are not SME.

Response: BIS is not adopting this recommendation. Use of the STA consignee statement can readily be distinguished from use of the DSP–83. The consignee must send the STA consignee statement to the exporter as one of the requirements that the parties to the transaction must meet in order to be able to execute the transaction without prior US government approval. The DSP–83 is a document that must be submitted to the US government in support of an application for a government authorization to proceed with the transaction. The STA consignee statement is required for all transactions under License Exception STA. Although statements for 600 series items have more elements than statements for non-600 series items, those additional elements reflect the limitations on use of License Exception STA that are appropriate given the military nature of the 600 series items. This STA consignee statement is necessary to provide reasonable assurance that the consignee is aware of the requirements and limitations of License Exception STA, and has agreed to abide by them before the parties are permitted to proceed with a license-free transaction. The alternative is to apply for a license, which parties are free to do.

Comment: One commenter stated that making ECCN 3A611.c and d. high electron mobility transistors (HEMT)s and microwave monolithic integrated circuits (MMIC)s ineligible for License Exception STA would, when combined with the NS1 and RS1, impose a license requirement for all destinations other than Canada, making these commodities controlled as if they were subject to the ITAR. The commenter noted that commodities in ECCN 3A001 and HEMTs in ECCN 3A982 are both eligible for STA.

Response: The November 28 (military electronics) rule and this second proposed rule would make all commodities controlled in ECCN 3A611 ineligible for paragraph (c)(2) of License Exception STA (which authorizes shipments to eight countries), but would not preclude use of paragraph (c)(1) of STA (which authorizes shipments to 36 countries).

Comment: One commenter stated that two of BIS's prior proposed Export Control Reform Initiative rules (the

November 7 (aircraft) and the December 6 (gas turbine engine) rules) would preclude use of License Exception STA for electrical equipment, parts, and components specially designed for electro-magnetic interference (EMI) that conform to the requirements of MIL–STD–461. The commenter stated that this preclusion raises two difficulties. First, the distinction between electric and electronic parts and components is often unclear and that they may be ambiguously classified. The commenter also stated that this difficulty made it appropriate to raise the issue in a comment on the November 28 (military electronics) rule. Second, the commenter stated that standard MIL–STD–461 is a poor criterion for determining when items designed for EMI compatibility should be restricted from STA eligibility or subject to any reasons for control other than anti-terrorism because: (1) There are several historical versions of MIL–STD–461 that remain in effect for existing programs; (2) A number of civil requirements offer performance equal to or superior to MIL–STD–461; and (3) Military programs outside the United States may use multinational or foreign standards. The commenter states that a better criterion would be a degree of EMI protection exceeding the equivalent civil requirements for the item.

Response: BIS believes that the commenter misunderstood the scope of the rules. The rules cited by the commenter proposed restricting from STA software and technology for the development or production of aircraft electrical equipment, parts and components electrical equipment, parts, and components specially designed for electro-magnetic interference (EMI) that conform to the requirements of MIL–STD–461. They did not propose restricting from STA the equipment, parts and components themselves. The April 16 (initial implementation) rule published these restrictions in ECCNs 9D610 and 9E610 (*See* 78 FR 22733–22734, April 16, 2013).

Comment: One commenter provided two sets of comments. The first set provided detailed proposals for rewording USML Category XI and a number of ECCNs as they appeared in the November 28 (military electronics) rules of the Departments of State and Commerce. The second set proposed detailed rewording of a number of ECCNs and the creation of some new ECCNs in Category 9 of the CCL.

First Set of Comments

The commenter divided the proposals in his first set of comments into three topics, which he characterized as edits to remove: Overlaps in BIS's and State's November 28 (military electronics) rules that would move items from the CCL to the USML; ambiguities in the November 28 [Commerce] rule; and other CCL ambiguities that the commenter perceived to be relevant.

Instances in Which the Commenter Expressed a Belief That the Rule Would Transfer Items From the CCL to the USML

The commenter identified 18 instances in which he asserted that overlapping text would have the effect of transferring items from the CCL to the USML. BIS is not adopting any of the specific changes proposed by the commenter under this topic. In some instances, the commenter proposed only changes to the USML and not to the CCL. In other instances, the comment appeared to reflect an incomplete reading of either the USML or CCL entries such that detailed technical specifications were interpreted without consideration of introductory text that limited the overall range of the items to which the technical specifications applied. BIS does not believe that the November 28 (military electronics) rule or this proposed rule would transfer any items from the CCL to the USML. BIS invites comments that describe specific examples of actual items that are today subject to the EAR that would become subject to the ITAR were this and the corresponding State proposed rule to become final.

Instances in Which the Commenter Expressed a Belief That the Rule November 28 (Military Electronics) Rule Was Ambiguous

The commenter cited about 50 situations in which he thought the rule was ambiguous and needed changes for precision. In most instances, BIS either does not agree that the proposed text cited by the commenter was ambiguous or believes that the comment addressed text that is outside the scope of the proposal. However, in four instances, this proposed rule adopts changes recommended by this commenter.

The four instances in which this second proposed rule adopts changes from the November 28 (military electronics) rule in response to the comments proposed by this commenter are:

- Adding the phrase ''or software'' to paragraph .y of ECCN 3E611. Paragraph .y of ECCN 3E611 applies to technology for 3A611.y and 3D611.y. ECCN 3A611 applies to commodities and ECCN 3D611 applies to software. Use of the term ''commodities'' to apply to technology for both ECCNs in the November 28 (military electronics) rule was in error.
- Adding the word ''acoustic'' to the list of items in the note to ECCN 3A611.a and note 1 to 3A611.x. These notes describe in general terms the items that if not enumerated on the USML or another 600 series ECCN, are controlled by ECCN 3A611. Adding the word ''acoustic'' makes the listing more comprehensive.
- Adding the phrase ''Acoustic systems and equipment'' to the header of ECCN 6A611. In the November 28 (military electronics) rule, ECCN 6A611 referred readers to ECCN 3A611 for radar and related items specially designed for military use. The reference was included because CCL Category 6 controls a number of other radars. ECCN 3A611 would control acoustic systems and equipment specially designed for military use that are not on the USML or any other 600 series ECCN and other acoustic systems and equipment also in Category 6 of the CCL. Including the additional phrase will make ECCN 6A611 more descriptive and comprehensive.
- Adding a new ECCN 7A611 that only refers readers to ECCN 3A611 for navigation and avionics, parts, components, accessories and attachments ''specially designed'' for military use that are not enumerated in any USML category or other ''600 series'' ECCN. ECCN 3A611 applies to military electronic avionic and navigation devices not enumerated on the USML or in another 600 series ECCN. Because CCL Category 7 applies to such devices not specially designed for military use, the cross-reference will be helpful to alerting readers to check ECCN 3A611.

This proposed rule did not adopt the following proposals of this commenter.

Comment: Indicate in the foregoing cross-reference ECCNs that ECCN 3A611 does not control radar, acoustic systems and equipment, computers, telecommunication equipment or navigation and avionics and related items if controlled by any other ECCN, including non-600 series ECCNs. Apply ECCN 3A611 to commodities that are specially designed for military use.

Response: Commodities in non-600 series ECCNs (other than ECCNs ending in ''018'' and ECCN 0A918) are not specially designed for military use, so there should be no overlap between ECCN 3A611 and non-600 series ECCNs. Moreover, the April 16 (initial implementation) rule created an order of review that gives 600 series ECCNs preferences over non-600 series ECCNs. Adopting the commenter's proposal

would appear to undermine that order of review.

Comment: Replace the term ''specially designed'' with ''required'' in several ECCNs covering software. The term ''required'' as a well-defined meaning in the EAR that is based on a Wassenaar Arrangement definition. That term is defined in relation to technology rather than software.

Response: BIS believes that the term ''specially designed'' as defined on the April 16 (initial implementation) rule provides reasonable, practical and objective criteria for classifying products, the term ''required'' as currently defined would exclude many parts and components that are in fact designed for military items and that have no other practical use.

Comment: Do not use the term ''specially designed'' in instances where the Missile Technology Control Regime uses the word ''designed.'' Generally, the commenter recommended that no word replace the phrase ''specially designed,'' on the ground that the specifications in the ECCN are sufficiently precise that no qualifier is needed.

Response: BIS believes that the term specially designed as defined in the April 16 (initial implementation) rule is adequate to meet its MTCR obligations.

Comment: Replace the term ''operation or maintenance'' with the term ''use'' in several software ECCNs.

Response: BIS has adopted the phrase '' 'development,' 'production,' operation or maintenance'' as a standard practice in 600 series ECCNs. The commenter suggested no persuasive reason to change this policy.

Comment: Remove the term ''directly related'' and, in some instances, replace it with the word ''required'' in the several ''Related controls'' notes of software and technology ECCNs.

Response: The related control notes at issue refer readers to the USML for controls on ''technical data'' (which, on the USML, includes both software and technology) that is similar to the software or technology covered by that ECCN. The USML uses the term ''related to'' in describing the objects to which those technical data apply. In these cross-references to the USML, using the USML terminology is appropriate.

Comment: Do not use the phrase ''technical data,'' except in its meaning as defined in part 772 of the EAR.

Response: The specific uses of the term ''technical data'' to which this commenter objected are references to the USML. In that context, the term is used in a way that is consistent with its meaning in the USML. The term is not surrounded by quotation marks, which would signify that it is defined in part 772.

Comment: Replace the word ''and'' with the word ''or'' in the definition of ''use'' in the EAR.

Response: This proposal would affect every software ECCN in the entire CCL and is outside the scope of the November 28 (military electronics) rule.

Comment: The commenter recommended a number of changes to ECCNs or ECCN paragraphs for which modifications are not needed to accomplish the purpose of the November 28 (military electronics) rule and this proposed rule, which is to control on the CCL items that the President determines no longer warrant control on the USML.

Response: Without commenting on the merit of each of those proposed changes, BIS is not including them in this proposed rule because they are outside the scope of what BIS proposed in the November 28 (military electronics) rule. Including them in this proposed rule would distract readers and potential commenters, possibly depriving BIS of the benefit of informed analysis and comments on the rule's efficacy in achieving its purpose as stated above.

In addition to the changes discussed above, this commenter recommended several changes to the proposed ECCNs in CCL Category 9 concerning cryogenic and superconductive equipment and related items.

Comment:

- Add the phrase ''not controlled by 1C005, 3A001.d, 3A001.e.3, 3A201.b, 6A002.d.1, 6A006.a.1 or 8A002.o.2.c'' to the header of ECCN 9A620
- Add a related control note referring to ECCNs 1C005, 3A001.d, 3A001.e.3, 3A201.b, 6A002.d.1, 6A006.a.1 or 8A002.o.2.c.
- Remove the phrase '''specially designed' to be installed'' and the phrase ''and capable of'' from paragraphs .a and .b of 9A620
- Remove the words ''Parts'' and ''attachments'' from 9A620.x
- Change the word ''and'' to ''or'' everywhere it appears in the following phrase in ECCN 9B620: ''Test, inspection and production end items and equipment . . .''
- In ECCN 9A620.x, replace the phrase ''specially designed for a commodity controlled by ECCN 9A620'' with ''for a commodity controlled by ECCN 9A620.a or 9A620.b having any of the characteristics described in the texts of those sub-items.''
- In ECCN 9B620, replace the phrase: '' 'Specially designed' for items controlled in ECCN 9A620'' with the phrase ''having any of the characteristics described in 9A620.a or 9A620.b.''

Response: The ECCNs that this commenter proposes adding to the header of ECCN 9A620 and to a related control note in that ECCN apply, *inter alia,* to a number of commodities that have cryogenic or superconducting properties. None of them has the qualifier '' 'specially designed' to be installed in a vehicle for military . . . applications,'' which appears in paragraphs .a and .b of proposed ECCN 9A620. In fact, only one ECCN, 8A002.o.2.c, relates to a vehicle of any kind. In addition, the order of review in the April 16 (initial implementation) rule makes clear that items with characteristics that meet the parameters of a 600 series ECCN are controlled by that 600 series ECCN and not by a non-600 series ECCN.

The phrases '' 'specially designed' to be installed'' and the phrase ''and capable of'' are drawn from WAML category ML20, on which ECCN 9A620 is based. The commenter offered no specific reason to depart from the regime text. WAML category ML20 also uses the phrase ''components and attachments.'' The Wassenaar Arrangement does not define either ''components'' or ''attachments.'' However, BIS believes that as used in the Wassenaar Arrangement's control lists, the term ''components'' would encompass ''parts'' and ''components'' as defined in the April 16 (initial implementation) rule and the term ''attachments'' would encompass ''accessories'' and ''attachments'' as defined in the April 16 (initial implementation) rule. The phrase ''Test, inspection and production equipment'' is also used widely in describing product group B in all nine categories of the EAR. BIS believes that it is widely understood to encompass each of those three types of equipment, and that changing the formula for one ECCN would be more likely to increase than to decrease any misunderstandings that may exist. The suggested alternative phrases for ECCNs 9A620.x and 9B620 (replacing ''specially designed'' with ''having any of the characteristics of'') would distort the meaning of these ECCNs in ways that would in some instances extend the control beyond what BIS intends, and in other instances fail to control things that BIS intends to control. BIS believes that with the publication of the definition of the term ''specially designed'' in the April 16 (initial implementation) rule, these ECCNs will be best understood and appropriately tailored by retaining that term.

Comments That Commenter Characterized as ''Other'' Military Electronics Ambiguities

Comment: This commenter cited ten instances of alleged military electronics ambiguities, i.e., instances in which the applicable ECCN for an item was uncertain.

Response: BIS is not adopting any of this commenter's recommended changes in this category. Two of the comments in essence repeated the view that ECCNs 3A001.d and .e.3 should be cross referenced in ECCN 9A620 because they apply to superconducting commodities. The remaining eight comments do not address any text on the CCL that is related to or affected by the decision to control on the CCL items that the President determines no longer warrant control on the USML and are thus outside the scope of the November 28 (military electronics) rule.

Second Set of Comments Submitted by This Commenter

Comment: The commenter proposed changes to 57 of the 63 ECCNs currently in CCL Category 9, and the creation of five new ECCNs for that category. The commenter did not propose any changes to the four new ECCNs proposed for that category by the November 28 (military electronics) rule.

Response: All these proposed changes are outside the scope of the November 28 (military electronics) rule, and are extraneous to the purpose of that or this second proposed rule. Therefore, BIS is not making any changes to this proposed rule in response to these comments.

Detailed Description of Changes Proposed by This Rule

Revisions to ECCN 3A101

Currently, ECCN 3A101 refers readers to the ITAR for analog-to-digital converters described in paragraph .a. These converters would move to the CCL and continue to be controlled for MT reasons because they are identified on the MTCR Annex. Placing such items in this ECCN, rather than the new ECCN 3A611, will make it easier to identify, classify, and control such items. Consequently, this proposed rule adds analog-to-digital converters usable in ''missiles'' and having any of the characteristics described in proposed 3A101.a.1 or a.2. This proposed rule modifies the text of ECCN 3A101.a.1 compared to what was published in the November 28 (military electronics) rule to more closely follow the format and text of Category II, Item 14, 14.A.1 of the MTCR Annex. This is not a substantive change from what was previously proposed.

New 3Y611 Series of ECCNs

Proposed new ECCNs 3A611, 3B611, 3D611, and 3E611 would control military electronics and related test, inspection, and production equipment and software and technology currently controlled by USML Category XI that the President determines no longer warrant control on the USML. To the extent that they are not enumerated on the proposed revisions to Category XI, these proposed new ECCNs would also control computers, telecommunications equipment, radar ''specially designed'' for military use, parts, components, accessories, and attachments ''specially designed'' therefor, and related software and technology. This structure aligns with the current USML Category XI and ML11, which include within the scope of ''electronics'' such items as computers, telecommunications equipment, and radar. BIS believes that it will be easier to include such items within the scope of the proposed new 600 series that corresponds to USML Category XI, rather than creating new 600 series ECCNs in CCL Categories 4 (computers), 5 (telecommunications), 6 (radar) and 7(avionics). BIS, however, proposes including cross references in CCL Categories 4, 5, 6 and 7 to alert readers that ECCN 3A611 may control such items. As described above, BIS nonetheless solicits comments regarding whether it would be easier to understand and comply with controls on military electronics that move to the CCL from the USML if they were divided among 600 series entries in CCL Categories 4, 5, 6, and 7.

The proposed ECCN 3X611 series, except for ECCN 3X611.y, would be controlled for national security (NS Column 1 or NS1), regional stability (RS Column 1 or RS1), antiterrorism (AT Column 1 or AT1), and United Nations embargo (UN) reasons. ECCNs 3X611.y would only be controlled for AT1 reasons (ECCN 3B611 would not have a .y paragraph). Each ECCN in this 3X611 series is described more specifically below.

New ECCN 3A611

Proposed ECCN 3A611 paragraph .a would control electronic ''equipment,'' ''end items,'' and ''systems'' ''specially designed'' for military use that are not enumerated in either a USML category or another ''600 series'' ECCN.

Paragraph .b would be reserved. The corresponding USML Category is XI(b), which, in the Department of State proposed rule being published concurrently with this rule, would continue to be a catch-all control and would contain the following clarified version of the current Category XI(b): ''Electronic systems or equipment specially designed for intelligence purposes that collects, surveys, monitors, or exploits the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.'' In the Department of State's proposed rule being published simultaneously with this proposed rule, Category XI(b) references certain types of equipment and systems that are *per se* within the scope of the revised Category XI(b). BIS encourages the public to comment on whether this approach creates any confusion regarding the jurisdictional status of any items that are commonly used in normal commercial, non-intelligence, or non-security use, including those controlled under ECCN 5A980 (''Devices primarily useful for the surreptitious interception of wire, oral, or electronic communications.'')

Paragraphs .c and .d would control MMIC power amplifiers and discrete microwave transistors, respectively. These two paragraphs have been extensively revised from what was proposed in the November 28 (military electronics) rule in an effort to tailor them to control MMIC power amplifiers and discrete microwave transistors that have military end use and little or no civilian application. The new parameters are discussed under the heading ''Public Comments on the November 28 (military electronics) rule'' below. Additionally, a note has been added stating that paragraph .d includes bare dice, dice mounted on carriers or dice mounted in packages. The note also recognizes discrete transistors may also be referred to as power amplifiers but that doing so does not change the classification, whether under ECCN 3A001.b.3 or 3A611.d.

Paragraph .e would control high frequency (HF) surface wave radar capable of ''tracking'' surface targets on oceans.

In this proposed rule, microelectronic devices and printed circuit boards that are certified to be a 'trusted device' from a DMEA accredited supplier that were listed in paragraph .f in the November 28 (military electronics) rule are not listed because, upon review, all such devices and printed circuit boards that needed to be controlled were covered by other paragraphs of 3A611.

Paragraphs .f, .g, and .h in this proposed rule apply respectively to: (1) Application specific integrated circuits (ASICs) and programmable logic devices (PLD) programmed for 600 series items; (2) printed circuit boards and populated

circuit card assemblies whose layout is ''specially designed'' for 600 series items; and (3) multichip modules for which the pattern or layout is ''specially designed'' for 600 series items. These commodities were not explicitly included in the November 28 (military electronics) rule, but would have been covered by the ''catch all'' paragraph 3A611.x in that rule. However, these same types of devices, if for defense articles on the USML, were explicitly identified in Category XI.c.1, .2 and .3 of the Department of State rule of November 28. A comment on that Department of State proposal stated that greater clarity was needed to prevent classifying ASICs, PLDs, and printed circuit boards for 600 series items as defense articles subject to the ITAR. Identifying ASICs, PLDs and printed circuit boards for 600 series items explicitly in ECCN 3A611 contributes to this clarity. These additions are not substantive changes from what was proposed in the November 28 (military electronics) rule.

Each of the foregoing ECCN 3A611 paragraphs describes electronic items that BIS understands to be inherently military or otherwise exclusively designed and manufactured for military use. BIS encourages the public to test this understanding and identify items, if any, that fall within the scope of these new ECCNs that are in normal commercial use. If so, the comments should provide details on such commercial applications. In particular, BIS asks the public to comment on whether the controls in proposed new paragraphs 3A611.c (MMIC power amplifiers) and 3A611.d (discrete microwave transistors) are sufficiently limited to those not now or likely to be in normal commercial use by US or foreign telecommunications or other non-military applications. The basis for this request is that the current USML Category XI(c) does not now control any electronic parts, components, accessories, attachments, or associated equipment ''in normal commercial use'' even if they were ''specifically designed or modified for use with the equipment'' controlled in USML categories XI(a) or XI(b), which are, in essence, electronic equipment ''specifically designed, modified, or configured for military application.'' One of the goals of the reform effort is to ensure that items that are currently EAR controlled are not, through the creation of the more positive lists, unintentionally made ITAR or ''600 series'' controlled. This objective, however, does not preclude the possibility of the Administration intentionally making ITAR or ''600 series'' controlled items that are today subject to the other parts of the EAR.

Paragraphs .i through .w would be reserved.

Paragraph .x would control ''parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 3A611 or for an article controlled by USML Category XI, and not enumerated in a USML category.

A related control note is proposed for ECCN 3A611 clarifying that electronic parts, components, accessories, and attachments that are ''specially designed'' for military use that are not enumerated in any USML Category, but are within the scope of a ''600 series'' ECCN, are controlled by that ''600 series'' ECCN. For example, electronic components not enumerated on the USML that are ''specially designed'' for a military aircraft controlled by USML Category VIII or ECCN 9A610 would be controlled by ECCN 9A610.x. Similarly, electronic components not enumerated on the USML that are ''specially designed'' for a military vehicle controlled by USML Category VII or ECCN 0A606 would be controlled by ECCN 0A606.x. The purpose of this note and the limitations in ECCN 3A611.x is to prevent any overlap of controls over electronics specially designed for particular types of items described in other 600 series ECCNs (which would not be controlled by 3A611.x), on one hand, and other electronic parts, components, accessories, and attachments specially designed for military electronics that are not enumerated on the USML (which would be controlled by ECCN 3A611.x), on the other.

Additional proposed related control notes address: Electronic items that are enumerated in USML categories, application specific integrated circuits, unprogrammed programmable logic devices, printed circuit boards and populated circuit cards, and multichip modules. Finally, a related control note informs readers that certain radiation hardened microelectronic circuits would be controlled by proposed ECCN 9A515.d. See 78 FR 31431, 31442 (May 24, 2013) for the proposed text of ECCN 9A515.

A note proposed for ECCN 3A611.x specifies that ECCN 3A611.x controls parts and components ''specially designed'' for underwater sensors or projectors controlled by proposed USML Category XI(c)(12) containing single-crystal lead magnesium niobate lead titanate (PMN–PT) based piezoelectrics.

ECCN 3A611 also would contain a paragraph .y for items of little or no military significance that would be controlled only for AT1 reasons.

New ECCN 3B611

Proposed ECCN 3B611 would impose, under paragraph .a, controls on test, inspection, and production end items and equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of items controlled in ECCN 3A611 or USML Category XI that are not enumerated in USML XI or controlled by a ''600 series'' ECCN and, under paragraph .x, for ''parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for such test, inspection and production end items and equipment that are not enumerated on the USML or controlled by another ''600 series'' ECCN. Paragraphs .b through .w would be reserved.

New ECCN 3D611

Proposed ECCN 3D611 paragraph .a would impose controls on software ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 3A611 or 3B611 other than software for 3A611.y. Paragraph .b would impose controls on software specially designed for the ''development,'' ''production,'' operation or maintenance of technology in ECCN 3E611.b; *i.e.,* software (other than build-to-print software) for technology for helix traveling wave tubes (TWTs), transmit/receive or transmit modules, MMICs; and discrete microwave circuits controlled under ECCN 3A611 would not be eligible for License Exception STA. Paragraphs .c through .x would be reserved. Paragraph .y would control specific ''software'' ''specially designed'' for the ''production,'' ''development,'' operation or maintenance of commodities enumerated in ECCNs 3A611.y.

New ECCN 3E611

Proposed ECCN 3E611 would impose controls on ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 3A611, 3B611 or 3D611 (except technology for 3A611.y and 3D611.y, which would be controlled for AT1 reasons only). Technology (other than ''build-to-print'' technology for helix traveling wave tubes (TWTs), transmit/receive or transmit modules, MMICs; and discrete microwave circuits controlled under ECCN 3A611 would not be eligible for License Exception STA.

Revisions to ECCN 4A003

As noted above, the analog-to-digital converters described in the proposed revision to 3A101.a would become subject to the EAR. Adding the text in 3A101.a.2.b for electrical input type analog-to-digital converter printed circuit boards or modules requires that this proposed rule amend ECCN 4A003 to add an MT control for items classified under ECCN 4A003.e when meeting or exceeding the parameters described in ECCN 3A101.a.2.b. This amendment is necessary because the MT items in new paragraph 3A101.a.2.b are a subset of the items in paragraph 4A003.e.

Revisions to ECCN 5A001

This proposed rule revises the Related Controls paragraph in ECCN 5A001 to provide more detailed references to telecommunications equipment subject to the ITAR under USML Categories XI and XV, while maintaining references to ECCNs 5A101, 5A980, and 5A991.

New Cross Reference ECCNs

Four new cross reference ECCNs would be created to alert readers that computers, telecommunications equipment, radar and avionics—and parts, components, accessories and attachments ''specially designed'' therefor—are controlled by ECCN 3A611 if they are specially designed for military use. These cross references are intended to reduce the likelihood of confusion that might otherwise arise because computers, telecommunications equipment, radar and avionics generally are in CCL Categories 4, 5 (Part 1), 6 and 7, respectively. The new cross reference ECCNs and the Categories in which they would appear are: 4A611, Category 4; 5A611, Category 5, Part 1; 6A611, Category 6; 7A611, Category 7. The avionics cross reference ECCN was not in the November 28 (military electronics) rule. As discussed below, BIS received public comments expressing a preference for controlling 600 series computers, telecommunications and radar in the CCL Categories under which other computers, telecommunications and radar are controlled rather than in a single ECCN in Category 3. The latter approach more closely follows the USML pattern. BIS encourages further comment on this issue.

Corrections to ECCNs 7A006 and 7D101

This proposed rule would correct the reasons for control paragraph of ECCN 7A006 to state that the MT reason for control applies to those items covered by ECCN 7A006 that also meet or exceed the parameters of ECCN 7A106. ECCN 7A006 now applies the missile technology reason for control to a range of airborne altimeters that extends beyond the range of altimeters that are on the MTCR Annex. BIS's practice is to apply the MT reason for control only to items on that Annex. This proposed change would conform ECCN 7A006 to that practice. Similarly, this proposed rule would add the phrase ''for missile technology reasons'' to the heading of ECCN 7D101. ECCN 7D101 applies the missile technology reason for control to software for a range of commodity ECCNs. Not all of those commodities are controlled for MT reasons. The text proposed here would limit the scope of missile technology controls in ECCN 7A106 to commodities on the MTCR Annex, and that of ECCN 7D101 to software for commodities on the MTCR Annex.

New 9X620 Series of ECCNs

Proposed ECCNs 9A620, 9B620, 9D620, and 9E620 would apply NS1, RS1, AT1 and UN reasons for control to cryogenic and superconducting equipment described in category ML20 of the WAML, and to test, inspection and production equipment, software and technology therefor. Category ML20 covers cryogenic and superconducting equipment that is ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications. BIS believes that such equipment is used in experimental or developmental vehicle propulsion systems that employ superconducting components and cryogenic equipment to cool those components. BIS has not identified evidence of trade in such items. To the extent that exports do exist, the items would be subject to the license requirements of the USML category that controls the vehicle into which the equipment would be installed, *i.e.,* Category VI, surface vessels; Category VII, ground vehicles; Category VIII, aircraft; and Category XV, spacecraft. BIS proposes to place this cryogenic and superconducting equipment, its related test, inspection and production equipment, and its related software and technology into a single set of 600 series ECCNs ending with the digits ''20'' to correspond to the relevant WAML category. This approach would further the administration's Export Control Reform Initiative goal of aligning US controls with multilateral controls wherever feasible. Each ECCN in this series is described more specifically below.

New ECCN 9A620

Proposed ECCN 9A620.a would control equipment ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (−170 °C). Paragraph .b would control ''superconductive'' electrical equipment (rotating machinery and transformers) ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications, and capable of operating while in motion. Paragraphs .c through .w would be reserved. Paragraph .x would control parts, components, accessories and attachments ''specially designed'' for a commodity controlled by ECCN 9A620.

New ECCN 9B620

Proposed ECCN 9B620 would control test, inspection, and production end items and equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul or refurbishing of items controlled in proposed ECCN 9A620.

New ECCN 9D620

Proposed ECCN 9D620 would control software ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCNs 9A620 or 9B620.

New ECCN 9E620

Proposed ECCN 9E620 would control a ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCNs 9A620, 9B620 or 9D620.

Proposed New ECCNs and License Exception STA

One of the objectives of the Export Control Reform Initiative is to align the jurisdictional status of technology and software with the items to which they relate. Thus, for example, as a general matter, all technical data and software directly related to a defense article, *i.e.,* an item identified on the ITAR's USML, will also be ITAR controlled. All technology, including technical data (other than classified technical data directly related to items controlled under ECCNs 3A611, 3B611, 3C611, or 3D611), and software for the production, development, or other aspects of an item on the EAR's CCL, will be subject to the EAR. Nevertheless, some types of software and technology are more significant than the commodities that are developed or produced from or that utilize such software or technology. In recognition of that fact, this proposed rule would preclude in the ECCNs the use of License Exception STA for

software and technology (other than build-to-print software and technology) for the following types of items if controlled by ECCN 3A611: (1) Helix traveling wave tubes (TWTs); (2) Transmit/receive or transmit modules; (3) Microwave monolithic integrated circuits (MMIC)s; and (4) Discrete microwave transistors. This fact is noted in the License Exception STA paragraphs for ECCNs 3D611 and 3E611.

Request for Comments

All comments must be in writing and submitted via one or more of the methods listed under the **ADDRESSES** caption to this notice. All comments (including any personal identifiable information) will be available for public inspection and copying. Those wishing to comment anonymously may do so by submitting their comment via regulations.gov and leaving the fields for identifying information blank.

Effects of This Proposed Rule

Use of License Exceptions

Military electronic equipment, certain cryogenic and superconducting equipment, and parts, components, and test, inspection, and production equipment therefor currently on the USML that this rule would place on the CCL would become eligible for several license exceptions, including STA, which would be available for exports to certain agencies of NATO governments and other multi-regime close allies. The exchange of information and statements required under STA are substantially less burdensome than the license application requirements under the ITAR, as discussed in more detail in the ''Regulatory Requirements'' section of this proposed rule. BIS does not intend with this proposed rule to move any items currently subject to the EAR to a 600 series ECCN; therefore, it would not narrow the scope of license exception eligibility for any items currently on the CCL.

Alignment With the Wassenaar Arrangement Munitions List

The Administration has stated since the beginning of the Export Control Reform Initiative that the reforms will be consistent with the obligations of the United States to the multilateral export control regimes. Accordingly, the Administration will, in this and subsequent proposed rules, exercise its national discretion to implement, clarify, and, to the extent feasible, align its control text with those of the regimes. This proposed rule would maintain the alignment that exists between the USML, in which military electronics are controlled under Category XI, and the WAML, in which military electronic equipment is controlled under ML11, and would be controlled by ECCN 3A611 in this proposed rule. Similarly, 3B611 aligns with WAML 18, which, *inter alia,* controls ''specially designed or modified 'production' equipment for the 'production' of products specified by the Munitions List, and specially designed components therefor.''

This proposed rule would align cryogenic and superconducting equipment currently controlled in Categories VI, VII, VIII, and XV of the USML with Wassenaar Arrangement Munitions List category ML20 by controlling them under ECCN 9A620. As with other 600 series ECCNs, this rule follows the existing CCL numbering pattern for test, inspection and production equipment (3B611 and 9B620), software (3D611 and 9D620) and technology (3E611 and 9E620), rather than strictly following the Wassenaar Arrangement Munitions List pattern of placing production equipment, software and technology for munitions list items in categories ML18, ML21 and ML22, respectively. BIS believes that including the ECCNs for test, inspection and production equipment, software, and technology in the same category as the items to which they relate results in an easier to understand CCL than would separate categories.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), as extended by the Notice of August 15, 2012, 77 FR 49699 (August 16, 2012), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute 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. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This proposed rule would affect two approved collections: Simplified Network Application Processing System (control number 0694–0088), which includes, among other things, license applications, and License Exceptions and Exclusions (0694–0137).

As stated in the proposed rule published at 76 FR 41958 (July 15, 2011), BIS initially believed that the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the administration's Export Control Reform Initiative would increase the number of license applications to be submitted by approximately 16,000 annually. As the review of the USML has progressed, the interagency group has gained more specific information about the number of items that would come under BIS jurisdiction, whether those items would be eligible for export under license exception. As of June 21, 2012, BIS believes the increase in license applications may be 30,000 annually, resulting in an increase in burden hours of 8,500 (30,000 transactions at 17 minutes each) under control number 0694–0088.

Military electronic equipment, certain cryogenic and superconducting equipment, related test, inspection and production equipment, ''parts,'' ''components,'' ''accessories'' and ''attachments,'' ''software'' and ''technology'' formerly on the USML would become eligible for License Exception STA under this rule. BIS believes that the increased use of License Exception STA resulting from the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the Administration's Export Control Reform Initiative would increase the burden associated with control number 0694–0137 by about 23,858 hours (20,450 transactions @ 1 hour and 10 minutes each).

BIS expects that this increase in burden will be more than offset by a reduction in burden hours associated with approved collections related to the ITAR. The largest impact of the proposed rule would likely apply to exporters of replacement parts for military electronic equipment that has been approved under the ITAR for export to allies and regime partners. Because, with few exceptions, the ITAR allows exemptions from license requirements only for exports to Canada, most exports of such parts, even when destined to NATO and other close allies, require specific State Department authorization. Under the EAR, as proposed here, such parts would become eligible for export to NATO and other multi-regime allies under License Exception STA. Use of License Exception STA imposes a paperwork and compliance burden because, for example, exporters must furnish information about the item being exported to the consignee and obtain from the consignee an acknowledgement and commitment to comply with the EAR. However, the Administration understands that complying with the burdens of STA is likely less burdensome than applying for licenses. For example, under License Exception STA, a single consignee statement can apply to an unlimited number of products, need not have an expiration date, and need not be submitted to the government in advance for approval. Suppliers with regular customers can tailor a single statement and assurance to match their business relationship rather than applying repeatedly for licenses with every purchase order to supply reliable customers in countries that are close allies or members of export control regimes or both.

Even in situations in which a license would be required under the EAR, the burden is likely to be reduced compared to the license requirement of the ITAR. In particular, license applications for exports of technology controlled by ECCN 3E611 are likely to be less complex and burdensome than the authorizations required to export ITAR-controlled technology, *i.e.,* Manufacturing License Agreements and Technical Assistance Agreements.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency (or his or her designee) certifies that a rule will not have a significant impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that the November 28 (military electronics) rule would not have a significant impact on a substantial number of small entities. The rationale for that certification was set forth in the preamble to that proposed rule (77 FR 70945, 70950–70951, November 28, 2012). Although BIS received no comments on that rationale, and has accordingly made no changes to the proposed rule based on the RFA certification, BIS has determined that, in the interest of openness and transparency, it will briefly restate the rationale behind the certification here.

This rule, if implemented, is part of the Administration's Export Control Reform Initiative, which seeks to revise the USML to a positive list—one that does not use generic, catch-all controls for items listed—and to move some items that the President has determined no longer merit control under the ITAR to control under the CCL.

Although BIS does not collect data on the size of entities that apply for and are issued export licenses, and is therefore unable to estimate the exact number of small entities—as defined by the Small Business Administration's regulations implementing the RFA—BIS acknowledges that some small entities may be affected by this proposed rule.

The main effects on small entities resulting from this rule will be in application times, costs, and delays in receiving licenses to export goods subject to the CCL. However, while small entities may experience some costs and time delays for exports due to the license requirements of the CCL, these costs and delays will likely be significantly less than they were for items previously subject to the USML. BIS believes that in fact this rule will result in significantly reduced administrative costs and delays for exports of items that will, upon this rule's implementation, be subject to the EAR rather than the ITAR. Currently, USML applicants must pay to use the USML licensing procedure even if they never actually are authorized to export. Registration fees for manufacturers and exporters of articles on the USML start at $2,250 per year, increase to $2,750 for organizations applying for one to ten licenses per year and further increases to $2,750 plus $250 per license application (subject to a maximum of three percent of total application value) for those who need to apply for more than ten licenses per year. By contrast, BIS is statutorily prohibited from imposing licensing fees. In addition, exporters and reexporters of goods that would become subject to the EAR under this rule would need fewer licenses because their transactions would become eligible for license exceptions that were not available under the ITAR. Additionally, the ITAR controlled parts and components even when they were incorporated—in any amount—into a foreign-made product. That limitation on the use of U.S.-made goods subject to the ITAR discouraged foreign manufacturers from importing U.S. goods. However, the EAR has a *de minimis* exception for U.S.-manufactured goods that are incorporated into foreign-made products. This exception may benefit small entities by encouraging foreign producers to use more U.S.-made items in their goods.

Even where an exporter or reexporter would need to obtain a license under the EAR, that process is both cheaper and the process is more flexible than obtaining a license under the ITAR. For example, unlike the ITAR, the EAR does not require license applicants to provide BIS with a purchase order with the application, meaning that small (or any) entities can enter into negotiations or contracts for the sale of goods without having to caveat any sale presentations with a reference to the need to obtain a license under the ITAR before shipment can occur. Second, the EAR allows license applicants to obtain licenses to cover all expected exports or reexports to a particular consignee over the life of a license, rather than having to obtain a new license for every transaction.

In short, BIS expects that the changes to the EAR proposed in this rule will have a positive effect on all affected entities, including small entities. While BIS acknowledges that this rule may have some cost impacts to small (and other) entities, those costs are more than offset by the benefits to the entities from the licensing procedures under the EAR, which are much less costly and less time consuming than the procedures under the ITAR. Accordingly, the Chief Counsel for Regulation for the

Department of Commerce has certified that this rule, if implemented, will not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required, and none has been prepared.

List of Subjects in 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, part 774 of the Export Administration Regulations (15 CFR Parts 730–774) is proposed to be amended as follows:

PART 774—[AMENDED]

■ 1. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.,* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 15, 2012, 77 FR 49699 (August 16, 2012).

■ 2. In Supplement No. 1 to Part 774, Category 3, amend Export Control Classification Number (ECCN) 3A101 by:

■ a. revising the Related Controls paragraph in the List of Items Controlled section; and

■ b. revising paragraph a in the Items paragraph in the List of Items Controlled section, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

3A101 Electronic equipment, devices and components, other than those controlled by 3A001, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Related Controls: See also ECCN 4A003.e for controls on analog-to-digital converter, printed circuit boards, or modules for computers.

* * * * *

Items:

a. Analog-to-digital converters usable in ''missiles,'' and having any of the following characteristics:

a.1. ''Specially designed'' to meet military specifications for ruggedized equipment;

a.2. ''Specially designed'' for military use and being any of the following types:

a.2.a. Analog-to-digital converter microcircuits which are radiation-hardened or have all of the following characteristics:

a.2.a.1. Having a quantization corresponding to 8 bits or more when coded in the binary system;

a.2.a.2. Rated for operation in the temperature range from −54 °C to above +125 °C; and

a.2.a.3. Hermetically sealed; *or*

a.2.b. Electrical input type analog-to-digital converter printed circuit boards or modules, having all of the following characteristics:

a.2.b.1. Having a quantization corresponding to 8 bits or more when coded in the binary system;

a.2.b.2. Rated for operation in the temperature range from below −45 °C to above +55 °C; and

a.2.b.3. Incorporating microcircuits identified in 3A101.a.2 or a.3;

* * * * *

■ 3. In Supplement No. 1 to Part 774, between the entries for ECCNs 3A292 and 3A980, add new entry for ECCN 3A611 to read as follows:

3A611 Military electronics, as follows (see list of items controlled).

Reason for Control: NS, RS, AT, UN

Control(s)	*Country chart*
NS applies to entire entry except 3A611.y.	NS Column 1
RS applies to entire entry except 3A611.y.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry except 3A611.y.	See § 746.1(b) for UN controls

License Exceptions

LVS: $1500 for 3A611.a, .d through .h and .x; N/A for ECCN 3A611.c and .y

GBS: N/A

CIV: N/A

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 3A611.

List of Items Controlled

Unit: End items in number; parts, components, accessories and attachments in $ value

Related Controls: (1) Electronic items that are enumerated in USML Category XI or other USML categories, and technical data (including software) directly related thereto, are subject to the ITAR. (2) Application specific integrated circuits (ASICs) and programmable logic devices that are programmed for defense articles that are subject to the ITAR are controlled in USML Category XI(c)(1). (3) See ECCN 3A001.a.7 for controls on unprogrammed programmable logic devices. (4) Printed circuit boards and populated circuit cards whose layout is specially designed for defense articles that are subject to the ITAR are controlled in USML Category XI(c)(2). (5) Multichip modules for which the pattern or layout is ''specially designed'' for defense articles that are subject to the ITAR are controlled in USML Category XI(c)(3). (6) Electronic items ''specially designed'' for military use that are not controlled in any USML category but are within the scope of another ''600 series'' ECCN are controlled by that ''600 series'' ECCN. Thus, ECCN 3A611 controls only electronic items ''specially designed'' for a military use that are not otherwise within the scope of a USML category or ''600 series'' ECCN other than ECCN 3A611. For example, electronic components not enumerated on the USML or a 600 series other than 3A611 that are ''specially designed'' for a military aircraft controlled by USML Category VIII or ECCN 9A610 are controlled by the catch-all control in ECCN 9A610.x. Electronic components not enumerated on the USML or another 600 series entry that are ''specially designed'' for a military vehicle controlled by USML Category VII or ECCN 0A606 are controlled by ECCN 0A606.x. Electronic components not enumerated on the USML that are ''specially designed'' for a missile controlled by USML Category IV are controlled by ECCN 0A604. (7) Certain radiation hardened microelectronic circuits are controlled by ECCN 9A515.d, when ''specially designed'' for defense articles, 600 series items, or items controlled by 9A515.

Related Definitions: N/A

Items:

a. Electronic ''equipment,'' ''end items,'' and ''systems'' ''specially designed'' for military use that are not enumerated in either a USML category or another ''600 series'' ECCN.

Note: ECCN 3A611.a includes any radar, telecommunications, acoustic or computer equipment, end items, or systems ''specially designed'' for military use that are not enumerated in any USML category or controlled by a ''600 series'' ECCN.

b. [Reserved]

c. Microwave ''monolithic integrated circuits'' (MMIC) power amplifiers having any of the following:

c.1. Rated for operation at frequencies exceeding 2.7 GHz up to and including 2.9 GHz and having any of the following:

c.1.a. A ''fractional bandwidth'' greater than 15%, with a peak saturated power output greater than 75 W (48.75 dBm) and a power added efficiency of 50% or greater anywhere within the operating frequency range; or

c.1.b. A ''fractional bandwidth'' greater than 60%, with a peak saturated power output greater than 150 W (51.8 dBm) anywhere within the operating frequency range;

c.2. Rated for operation at frequencies exceeding 2.9 GHz up to and including 3.2 GHz and having any of the following:

c.2.a A ''fractional bandwidth'' greater than 15%, with a peak saturated power output greater than 55 W (47.4 dBm) and a power added efficiency of 45% or greater anywhere within the operating frequency range; or

c.2.b. A ''fractional bandwidth'' greater than 55%, with a peak saturated power output greater than 110 W (50.4 dBm) anywhere within the operating frequency range;

c.3. Rated for operation at frequencies exceeding 3.2 GHz up to and including 3.7 GHz and having any of the following:

c.3.a A ''fractional bandwidth'' greater than 15%, with a peak saturated power output greater than 40 W (46 dBm) and a power added efficiency of 45% or greater anywhere within the operating frequency range; or

c.3.b A ''fractional bandwidth'' greater than 50%, with a peak saturated power output greater than 80 W (49 dBm) anywhere within the operating frequency range;

c.4. Rated for operation at frequencies exceeding 3.7 GHz up to and including 6.8 GHz and having any of the following:

c.4.a. A ''fractional bandwidth'' greater than 15%, with a peak saturated power output greater than 20 W (43 dBm) and a power added efficiency of 40% or greater anywhere within the operating frequency range; or

c.4.b A ''fractional bandwidth'' greater than 45%, with a peak saturated power output greater than 40 W (46 dBm) anywhere within the operating frequency range;

c.5. Rated for operation at frequencies exceeding 6.8 GHz up to and including 8.5 GHz and having any of the following:

c.5.a A ''fractional bandwidth'' greater than 10%, with a peak saturated power output greater than 10 W (40.0 dBm) and a power added efficiency of 40% or greater anywhere within the operating frequency range; *or*

c.5.b A ''fractional bandwidth'' greater than 40%, with a peak saturated power output greater than 20 W (43 dBm) anywhere within the operating frequency range;

c.6. Rated for operation at frequencies exceeding 8.5 GHz up to and including 16 GHz and having any of the following:

c.6.a. A ''fractional bandwidth'' greater than 10%, with a peak saturated power output greater than 5 W (37 dBm) and a power added efficiency of 35% or greater anywhere within the operating frequency range; or

c.6.b A ''fractional bandwidth'' greater than 40%, with a peak saturated power output greater than 10 W (40 dBm) anywhere within the operating frequency range;

c.7. Rated for operation at frequencies exceeding 16 GHz up to and including 31.8 GHz with a ''fractional bandwidth'' greater than 10%, and having a peak saturated power output greater than 3 W (34.77 dBm) and a power added efficiency of 20% or greater anywhere within the operating frequency range;

c.8. Rated for operation at frequencies exceeding 31.8 GHz up to and including 37 GHz, and having a peak saturated power output greater than 2 W (33 dBm) anywhere within the operating frequency range;

c.9. Rated for operation at frequencies exceeding 37 GHz up to and including 43.5 GHz with a ''fractional bandwidth'' greater than 10%, and having a peak saturated power output greater than 1 W (30 dBm) and a power added efficiency of 15% or greater anywhere within the operating frequency range;

c.10. Rated for operation at frequencies exceeding 43.5 GHz up to and including 75 GHz with a ''fractional bandwidth'' greater than 10%, and having a peak saturated power output greater than 31.62 mW (15 dBm) and a power added efficiency of 10% or greater anywhere within the operating frequency range;

c.11. Rated for operation at frequencies exceeding 75 GHz up to and including 90 GHz with a ''fractional bandwidth'' greater than 5%, and having a peak saturated power output greater than 10 mW (10 dBm) and a power added efficiency of 10% or greater anywhere within the operating frequency range;

c.12. Rated for operation at frequencies exceeding 90 GHz up to and including 110 GHz and having a peak saturated power output greater than 1.0 mW (0 dBm) anywhere within the operating frequency range; or

c.13. Rated for operation at frequencies exceeding 110 GHz and having a peak saturated power output greater than 100 nW (-40 dBm) anywhere within the operating frequency range.

Note 1 to 3A611.c: *The status of an item whose rated operating frequency includes frequencies listed in more than one frequency range, as defined by 3A611.c.1 through 3A611.c.13 is determined by the lowest saturated output power threshold.*

Note 2 to 3A611.c: *Peak saturated power output may also be referred to as output power, saturated power output, maximum power output, peak power output, or peak envelope power output.*

d. Discrete microwave transistors having any of the following:

d.1. Rated for operation at frequencies exceeding 2.7 GHz up to and including 2.9 GHz and having a peak saturated power output greater than 400 W (56 dBm) and a power added efficiency of 50% or greater anywhere within the operating frequency range;

d.2. Rated for operation at frequencies exceeding 2.9 GHz up to and including 3.2 GHz and having a peak saturated power output greater than 205 W (53.12 dBm) and a power added efficiency of 50% or greater anywhere within the operating frequency range;

d.3. Rated for operation at frequencies exceeding 3.2 GHz up to and including 3.7 GHz and having a peak saturated power output greater than 115 W (50.61 dBm) and a power added efficiency of 45% or greater anywhere within the operating frequency range;

d.4. Rated for operation at frequencies exceeding 3.7 GHz up to and including 6.8 GHz and having a peak saturated power output greater than 60 W (47.78 dBm) and a power added efficiency of 45% or greater anywhere within the operating frequency range;

d.5. Rated for operation at frequencies exceeding 6.8 GHz up to and including 8.5 GHz and having a peak saturated power output greater than 50 W (47 dBm) and a power added efficiency of 50% or greater anywhere within the operating frequency range;

d.6. Rated for operation at frequencies exceeding 8.5 GHz and up to and including 12 GHz and having a peak saturated power output greater than 20 W (43 dBm) and a power added efficiency of 35% or greater anywhere within the operating frequency range;

d.7. Rated for operation at frequencies exceeding 12 GHz up to and including 16 GHz and having a peak saturated power output greater than 40 W (46 dBm) and a power added efficiency of 35% or greater anywhere within the operating frequency range;

d.8. Rated for operation at frequencies exceeding 16 GHz up to and including 31.8 GHz and having a peak saturated power output greater than 20 W (43 dBm) and a power added efficiency of 30% or greater anywhere within the operating frequency range;

d.9. Rated for operation at frequencies exceeding 31.8 GHz up to and including 37 GHz and having a peak saturated power output greater than 2 W (33 dBm) anywhere within the operating frequency range;

d.10. Rated for operation at frequencies exceeding 37 GHz up to and including 43.5 GHz and having a peak saturated power output greater than 1 W (30 dBm) and a power added efficiency of 20% or greater anywhere within the operating frequency range; or

d.11. Rated for operation at frequencies exceeding 43.5 GHz to and including 75 GHz and having a peak saturated power output greater than 0.5 W (27 dBm) and a power added efficiency of 15% or greater anywhere within the operating frequency range;

d.12. Rated for operation at frequencies exceeding 75 GHz and having a peak saturated power output greater than 0.1 W (20 dBm) anywhere within the operating frequency range.

Note 1 to 3A611.d: *The status of an item whose rated operating frequency includes frequencies listed in more than one frequency range, as defined by 3A611.d.1 through 3A611.d.12 is determined by the lowest saturated output power threshold.*

Note 2 to 3A611.d: *Peak saturated power output may also be referred to as output power, saturated power output, maximum power output, peak power output, or peak envelope power output.*

Note 3 to 3A611.d: *3A611.d includes bare dice, dice mounted on carriers, or dice mounted in packages. Some discrete transistors may also be referred to as power amplifiers, but the status of these products are determined by 3A001.b.3. and 3A611.d.*

e. High frequency (HF) surface wave radar that maintains the positional state of maritime surface or low altitude airborne objects of interest in a received radar signal through time.

Note: *ECCN 3A611.e does not apply to systems, equipment, and assemblies ''specially designed'' for marine traffic control.*

f. Application specific integrated circuits (ASICs) and programmable logic devices (PLD) programmed for 600 series items.

g. Printed circuit boards and populated circuit card assemblies for which the layout is ''specially designed'' for 600 series items.

h. Multichip modules for which the pattern or layout is ''specially designed'' for 600 series items.

i. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by this entry or for an article controlled by USML Category XI, and not enumerated in any USML category.

Note 1 to ECCN 3A611.x: *ECCN 3A611.x includes parts, components, accessories, and attachments ''specially designed'' for a radar, telecommunications, acoustic systems or equipment or computer ''specially designed'' for military use that are neither enumerated in any USML category nor controlled in another ''600 series'' ECCN.*

Note 2 to ECCN 3A611.x: *ECCN 3A611.x controls parts and components ''specially designed'' for underwater sensors or projectors controlled by USML Category XI(c)(12) containing single-crystal lead magnesium niobate lead titanate (PMN–PT) based piezoelectrics.*

y. Specific ''parts,'' ''components,'' ''accessories'' and ''attachments'' ''specially designed'' for a commodity subject to control in this entry and not elsewhere specified in any 600-series ECCN as follows:

y.1. Electric couplings;

y.2. Cathode ray tubes (CRTs);

y.3. Electrical connectors;

y.4. Electric fans;

y.5. Rotron fans;

y.6. Electric fuses other than those specially designed for explosive detonation;

y.7. Grid vacuum tubes;

y.8. Audio headphones, earphones, handsets, and headsets;

y.9. Heat sinks;

y.10. Intercom systems;

y.11. Joy sticks;

y.12. Loudspeakers;

y.13. Mica paper capacitors;

y.14. Microphones;

y.15. Potentiometers;

y.16. Rheostats;

y.17. Electric connector backshells;

y.18. Solenoids;

y.19. Speakers;

y.20. Electric switches other than RF, pressure, diplexer, duplexer, circulator, or isolator switches;

y.21. Trackballs;

y.22. Electric transformers;

y.23. Vacuum tubes other than TWTs, klystron tubes, or tubes specially designed for articles enumerated in USML Category XII;

y.24. Waveguide.

■ 4. In Supplement No. 1 to Part 774, between the entries for ECCNs 3B002 and 3B991, add new entry for ECCN 3B611 to read as follows:

3B611 Test, inspection, and production commodities for military electronics, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

License Exceptions

LVS: $1500

GBS: N/A

CIV: N/A

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 3B611.

List of Items Controlled

Unit: N/A

Related Controls: N/A

Related Definitions: N/A

Items:

a. Test, inspection, and production end items and equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul or refurbishing of items controlled in ECCN 3A611 or USML Category XI that are not enumerated in USML Category XI or controlled by another ''600 series'' ECCN.

b. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity listed in this entry and that are not enumerated on the USML or controlled by another ''600 series'' ECCN.

■ 5. In Supplement No. 1 to Part 774, between the entries for ECCNs 3D101 and 3D980, add a new entry for ECCN 3D611 to read as follows:

3D611 ''Software'' ''specially designed'' for military electronics, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country chart*
NS applies to entire entry except 3D611.y.	NS Column 1
RS applies to entire entry except 3D611.y.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry except 3D611.y.	See § 746.1(b) for UN controls

License Exceptions

CIV: N/A

TSR: N/A

STA: 1. Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''software'' in 3D611. 2. Except for ''build-to-print'' software, License Exception STA is not eligible for software enumerated in ECCN 3D611.b.

List of Items Controlled

Unit: $ value

Related Controls: ''*Software*'' directly related to articles enumerated in USML Category XI is controlled in USML Category XI(d).

Related Definitions: N/A

Items:

a. Software ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCN 3A611 (other than 3A611.y) and 3B611.

b. Software specially designed for the ''development,'' ''production,'' operation or maintenance of technology in ECCN 3E611.b.

c. through x. [Reserved]

y. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' operation or maintenance of commodities enumerated in ECCNs 3A611.y.

■ 6. In Supplement No. 1 to Part 774, between the entries for ECCNs 3E292 and 3E980, add new entry for ECCN 3E611 to read as follows:

3E611 Technology ''required'' for military electronics, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country chart*
NS applies to entire entry except 3E611.y.	NS Column 1
RS applies to entire entry except 3E611.y.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry except 3E611.y.	See § 746.1(b) for UN controls

License Exceptions

CIV: N/A

TSR: N/A

STA: 1. Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any technology in 3E611. 2. Except for ''build-to-print'' technology, License Exception STA is not eligible for technology enumerated in ECCN 3E611.b.

List of Items Controlled

Unit: $ value

Related Controls: Technical data directly related to articles enumerated in USML Category XI is controlled in USML Category XI(d).

Related Definitions: N/A

Items:

a. ''Technology'' (other than that described in 3E611.b or 3E611.y) ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 3A611, 3B611 or 3D611.

b. ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of the following if controlled by ECCN 3A611, including 3A611.x:

b.1. Helix traveling wave tubes (TWTs);

b.2. Transmit/receive or transmit modules;

b.3. Microwave monolithic integrated circuits (MMIC); or

b.4. Discrete microwave transistors.

c. through x. [Reserved]

y. Specific ''technology'' ''required'' for the ''production,'' ''development,'' operation,

installation, maintenance, repair, overhaul, or refurbishing of commodities or software enumerated in ECCNs 3A611.y or 3D611.y.

■ 7. In Supplement No. 1 to Part 774, amend ECCN 4A003 by revising the License Requirements section to read as follows:

4A003 "Digital computers", "electronic assemblies", and related equipment therefor, as follows (see List of Items Controlled) and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, CC, AT, NP

Control(s)	*Country chart*
NS applies to 4A003.b and .c.	NS Column 1
NS applies to 4A003.e and .g.	NS Column 2
MT applies to 4A003.e when the parameters in 3A101.a.2.b are met or exceeded.	MT Column 1
CC applies to "digital computers" for computerized finger-print equipment.	CC Column 1
AT applies to entire entry (refer to 4A994 for controls on "digital computers" with a APP >0.0128 but ≤3.0 WT).	AT Column 1

NP applies, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

Note 1: *For all destinations, except those countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR, no license is required (NLR) for computers with an "Adjusted Peak Performance" ("APP") not exceeding 3.0 Weighted TeraFLOPS (WT) and for "electronic assemblies" described in 4A003.c that are not capable of exceeding an "Adjusted Peak Performance" ("APP") exceeding 3.0 Weighted TeraFLOPS (WT) in aggregation, except certain transfers as set forth in § 746.3 (Iraq).*

Note 2: *Special Post Shipment Verification reporting and recordkeeping requirements for exports of computers to destinations in Computer Tier 3 may be found in § 743.2 of the EAR.*

* * * * *

■ 8. In Supplement No. 1 to Part 774, between the entries for ECCNs 4A102 and 4A980, add a new entry for ECCN 4A611 as follows:

4A611 Computers, and parts, components, accessories, and attachments "specially designed" therefor, "specially designed" for military use that are not enumerated in any USML category are controlled by ECCN 3A611.

■ 9. In Supplement No. 1 to Part 774, amend ECCN 5A001 by revising the Related Controls paragraph of the List of Items Controlled section, to read as follows:

5A001 Telecommunications systems, equipment, components and accessories, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Related Controls: 1. See USML Category XV for controls on telecommunications equipment defined in 5A001.a.1 and any other equipment used in satellites that are subject to the ITAR. See USML Category XI for controls on direction finding equipment defined in 5A001.e and any other military or intelligence electronic equipment subject to the ITAR. 2. See USML Category XI(a)(4)(iii) for controls on electronic attack and jamming equipment defined in 5A001.f and .h that are subject to the ITAR. 3. See also ECCNs 5A101, 5A980, and 5A991.

* * * * *

■ 10. In Supplement No. 1 to Part 774, between the entries for ECCNs 5A101 and 5A980, add a new entry for ECCN 5A611 as follows:

5A611 Telecommunications equipment, and parts, components, accessories, and attachments "specially designed" therefor, "specially designed" for military use that are not enumerated in any USML category are controlled by ECCN 3A611.

■ 11. In Supplement No. 1 to Part 774, between the entries for ECCNs 6A226 and 6A991, add a new entry for ECCN 6A611 as follows:

6A611 Acoustic systems and equipment, radar, and parts, components, accessories, and attachments "specially designed" therefor, "specially designed" for military use that are not enumerated in any USML category or other ECCN are controlled by ECCN 3A611.

■ 12. In Supplement No. 1 to Part 774, ECCN 7A006, revise the Reasons for Control paragraph of the License Requirements section to read as follows:

7A006 Airborne altimeters operating at frequencies other than 4.2 to 4.4 GHz inclusive and having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
MT applies to commodities in this entry that meet or exceed the parameters of 7A106.	MT Column 1
AT applies to entire entry.	AT Column 1

* * * * *

■ 13. In Supplement No. 1 to Part 774, between the entries for ECCNs 7A117 and 7A994, add a new entry for ECCN 7A611 as follows:

7A611 Navigation and avionics equipment and, systems and parts, components, accessories, and attachments "specially designed" therefor, "specially designed" for military use that are not enumerated in any USML category or another 600 series ECCN are controlled by ECCN 3A611.

■ 14. In Supplement No. 1 to Part 774, ECCN 7D101, revise the heading to read as follows:

7D101 "Software" specially designed or modified for the "use" of equipment controlled for missile technology (MT) reasons by 7A001 to 7A006, 7A101 to 7A107, 7A115, 7A116, 7A117, 7B001, 7B002, 7B003, 7B101, 7B102, or 7B103.

* * * * *

■ 15. In Supplement No. 1 to Part 774, between the entries for ECCNs 9A120 and 9A980, add a new entry for ECCN 9A620 to read as follows:

9A620 Cryogenic and "superconductive" equipment, as follows (see list of items controlled).

Reason for Control: NS, RS, AT, UN

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A
STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 9A620.

List of Items Controlled

Unit: End items in number; parts, components, accessories and attachments in $ value.
Related Controls: Electronic items that are enumerated in USML Category XI or other USML categories, and technical data (including software) directly related thereto, are subject to the ITAR.
Related Definitions: N/A
Items:

a. Equipment "specially designed" to be installed in a vehicle for military ground, marine, airborne, or space applications, and capable of operating while in motion and of producing or maintaining temperatures below 103 K (-170°C).

Note to 9A620.a: *ECCN 9A620.a includes mobile systems incorporating or employing accessories or components manufactured from non-metallic or non-electrical conductive materials such as plastics or epoxy-impregnated materials.*

b. ''Superconductive'' electrical equipment (rotating machinery and transformers) ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications, and capable of operating while in motion.

Note to 9A610.b: *ECCN 9A620.b. does not control direct-current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting components in the generator.*

c. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 9A620.

■ 16. In Supplement No. 1 to Part 774, between the entries for ECCNs 9B117 and 9B990, add a new entry for ECCN 9B620 to read as follows:

9B620 Test, inspection, and production commodities for cryogenic and ''superconductive'' equipment (see List of Items controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A
STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 9B620.

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items:

a. Test, inspection, and production end items and equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul or refurbishing of items controlled in ECCN 9A620.

b. [Reserved]

■ 17. In Supplement No. 1 to Part 774, between the entries for ECCNs 9D105 and 9D990, add a new entry for ECCN 9D620 to read as follows:

9D620 ''Software'' ''specially designed'' for cryogenic and ''superconductive'' equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

License Exceptions

CIV: N/A
TSR: N/A
STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''software'' in 9D620.

List of Items Controlled

Unit: $ value
Related Controls: ''Software'' directly related to articles enumerated on USML are subject to the control of that USML category.
Related Definitions: N/A
Items: Software ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCNs 9A620 or 9B620.

■ 18. In Supplement No. 1 to Part 774, between the entries for ECCNs 9E102 and 9E990, add a new entry for ECCN 9E620 to read as follows:

9E620 Technology ''required'' for cryogenic and ''superconductive'' equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

License Exceptions

CIV: N/A
TSR: N/A
STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any technology in 9E620.

List of Items Controlled

Unit: $ value
Related Controls: Technical data directly related to articles enumerated on USML are subject to the control of that USML category.
Related Definitions: N/A
Items: ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 9A620, 9B620 or 9D620.

Dated: July 12, 2013.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

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